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PART 11

General Rule-Making Procedures

Published May 1974

CONSOLIDATED REPRINT

This consolidated reprint incorporates Changes 1 through 12.

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

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FEDERAL AVIATION REGULATIONS

Department of Transportation
Federal Aviation Administration—Washington, D.C.

CHANGE 15 **EFF. SEPTEMBER 30, 1983**

Part 11—General Rule-Making Procedures

This Change incorporates Amendment 11-23, OMB Control Numbers for 14 CFR Chapter 1, effective September 30, 1983, in Federal Aviation Regulation Part 11.

The effective date of the new material, which is marked by black brackets, is carried at the bottom of each page. Preamble pages and rearranged pages having no new material carry the Change number only.

Also included in this Change is corrected page 2. This is to correct an error in § 11.25(b) (2) (ii).

Page Control Chart

Remove Pages	Dated	Insert Pages	Dated
I	8/17/81	I	8/17/81
II	Ch. 11	II	9/30/83
P-65	Ch. 14	P-65	Ch. 14
		P-66 and P-67	Ch. 15
1	8/17/81	1	8/17/81
2	Ch. 14	2	Ch. 14 (Corrected)
10-1 and 10-2	Ch. 11	10-1 and 10-2	9/30/83

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TD 4.6:

blank page

Part 11—General Rule-Making Procedures

Contents

Section		Page
Preambles		P-1
	Subpart A—General	
11.1	Applicability	1
11.11	Docket	1
[11.13	Delegation of authority]	1
11.15	Emergency exemptions	1
	Subpart B—Rules Other Than Airspace Assignment and Use	
11.21	Scope	2
11.23	Initiating rule-making procedures	2
11.25	Petitions for rule making or exemptions	2
11.27	Action on petitions for rule making or exemptions	3
11.28	Action on special conditions	4
11.29	Notice of proposed rule making	4
11.31	Participation of interested persons in rule-making procedures	5
11.33	Additional rule-making procedures	5
11.35	Participation by Civil Aeronautics Board in rule-making proceedings	5
11.37	Requests for informal appearances	5
	Subpart C—Processing of Rules Other Than Airworthiness Directives and Airspace Assignment and Use	
11.41	Scope	6
11.43	Processing of petitions for rule making or exemption from parts of this chapter	6
11.45	Issue of notice of proposed rule making	6
11.47	Proceeding after notice of proposed rule making	6
11.49	Adoption of final rules	6
11.51	Denial of petition for rule making	7
11.53	Grant or denial of exemption	7
11.55	Reconsideration of a denial or grant of exemption	7
	Subpart D—Rules and Procedures for Airspace Assignment and Use	
11.61	Scope	7
11.63	Filing of proposals	8
11.65	Issue of notice of proposed rule making	8
11.67	Hearings	9
11.69	Adoption of rules or orders	9
11.71	Exemptions	9
11.73	Petitions for rehearing or reconsideration of rules or orders	10
11.75	Petitions for revoking or modifying rules or orders	10

Section *Page*

Subpart E—Processing of Airworthiness Directives

11.81 Scope 10
11.83 Processing of petitions for rule making or exemption 10
11.85 Issue of notice of proposed rule making 10
11.87 Proceedings after notice of proposed rule making 10-1
11.89 Adoption of final rules 10-1
11.91 Grant or denial of exemption 10-1
11.93 Petitions for reconsideration of rules 10-1

[Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

[11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act] 10-1

Special Federal Aviation Regulation 27—Compliance With Aircraft Emission Standards Issued by Environmental Protection Agency (*Preamble*) 11
SFAR 27-1 (*Preamble*) 15
SFAR 27-2 (*Preamble*) 17
SFAR 27-3 (*Preamble*) 19
SFAR 27 (*Rule*) 21

Amendment 11-22

Delegation of Authority to Make Determinations Under the Regulatory Flexibility Act

Adopted: August 7, 1981 **Effective: August 17, 1981**

(Published in 46 FR 41488, August 17, 1981)

SUMMARY: This amendment delegates to the heads of the agency's appropriate Regions, Offices, Services, and Centers, the authority to make findings and determinations under the Regulatory Flexibility Act with regard to any rulemaking document for which issuance authority has already been delegated. This amendment is necessary to ensure timely compliance with the Act.

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3073.

SUPPLEMENTARY INFORMATION:

The Regulatory Flexibility Act, Pub. L. 96-354, which became effective on January 1, 1981, requires consideration of the effect of proposed and final rules on small entities, i.e., small businesses, organizations, and governments. In connection with these considerations, the Act requires agency heads to make findings and determinations in several instances. For example, 5 U.S.C. § 608(b), which was added by the Act, permits an agency head to delay the completion of a regulatory flexibility analysis (an analysis of the impact of a rule on small entities) for a final rule being issued in response to an emergency situation.

Much of the rulemaking authority of the agency has been delegated to the heads of the agency's Regions, Offices, and Services. These delegations are specified in 14 CFR Part 11. In order for these rulemaking functions to be carried out efficiently, under this delegated authority, it is necessary for those delegated this authority to also be permitted to carry out the associated responsibilities under the Regulatory Flexibility Act. Accordingly, the authority to carry out Regulatory Flexibility Act responsibilities is being delegated to those officials who have already been delegated rulemaking responsibilities within the agency.

Since this amendment relates to agency management, procedures and practices, notice and public procedure on it are not required and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER. For the same reasons, it is not subject to the requirements of Executive Order 12291 on Federal Regulations.

THE AMENDMENT

Accordingly, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended, effective August 17, 1981, by inserting a new paragraph in the reserved § 11.13.

(Sec. 313(a), 314(a), 601 through 610, 1102, the Federal Aviation Act of 1958 (49 U.S.C. §§ 1354(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c).)

Amendment 11-23

OMB Control Numbers for 14 CFR Chapter 1

Adopted: July 29, 1983 **Effective: September 30, 1983**

(Published in 48 FR 39448, August 31, 1983)

SUMMARY: This amendment consolidates and displays the Office of Management and Budget (OMB) control numbers assigned to the information collection requirements of the Federal Aviation Administration by listing in Part 11 of the Federal Aviation Regulation (FAR) the part or section of the regulations stating the paperwork burden with the number assigned to that burden. This publication of the control numbers is necessary so that the public may be aware of those paperwork burdens imposed by the FAA that have been approved by the Office of Management and Budget (OMB). While complying with the intent of the Paperwork Reduction Act of 1980 (Title 44 U.S.C. Chapter 35) and the procedures established in 5 CFR Part 1320, the consolidation of the 14 CFR Chapter I control numbers in Part 11 allows easier insertion of the numbers for existing requirements and more efficient changes for later ones.

FOR FURTHER INFORMATION CONTACT:

Mr. Leonard R. Smith, Executive Secretary, Regulatory Council (AGC-203), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-9097.

SUPPLEMENTARY INFORMATION:

Background

The Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) sought to minimize the paper burden imposed by the Federal Government while maximizing the utility of the information requested. The Act requires that the agency responsible for the burden balance the practical value of the information against the time and cost to the public in providing that information. In March 1983, the Office of Management and Budget (OMB) implemented the Act by adopting the procedures contained in Part 1320 of 5 CFR Chapter III. These procedures became effective May 2, 1983. According to these procedures, once OMB has approved a collection of information, a control number (and, if appropriate, an expiration date) will be assigned. This control number must be displayed by being published in the FEDERAL REGISTER and in the Code of Federal Regulations (CFR's). For existing collection requirements, OMB control numbers must be assigned and displayed by March 1, 1984, or those requirements will become ineffective.

By using a table format, the existing collection requirements for the Federal Aviation Administration can be easily inserted into Part 11 of the Federal Aviation Regulations (FAR) and efficiently amended as changes take place. Because the OMB control numbers for only one chapter are included, this amendment limits the consolidation in accordance with OMB procedures and does so with one of the formats suggested by OMB. Additionally, the consolidation promotes public awareness of approved requirements while limiting the burden on this agency in publishing the information and, thus, conforms to the intent of the Paperwork Reduction Act.

General

This amendment adds a new Subpart F to Part 11 of Title 14 of the Code of Federal Regulations (CFR's), entitled "Agency Information Collection Requirements under the Paperwork Reduction Act." Subpart F consists of § 11.101(a), which outlines the purpose of the new subpart, and § 11.101(b), which provides the display of numbers. Section 11.101(a) states that the purpose of Subpart F is to consolidate and display the OMB control numbers for the information collection requirements of the Federal Aviation Administration (FAA) pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35). Section

11.101(b) provides the display by using a table containing the 14 CFR part or section that states the burden alongside the burden's current OMB control number.

Comments

This amendment consolidates information already approved and concerns intra-agency procedural matters upon which public comment would be useful or necessary. Because this amendment is editorial in nature, notice and public procedure are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, a new Subpart F is added to 14 CFR Part 11, effective September 30, 1983.

AUTHORITY: Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

NOTE: Because this amendment merely consolidates for display control numbers previously approved by the OMB, the FAA has determined that it is editorial in nature and imposes no new burden on any person. Therefore, it has been determined that this amendment involves a regulation that is not (1) major under Executive Order 12291 or (2) significant under the Department of Transportation Policies and Procedures (44 FR 11034; February 26, 1979). In addition, because it involves merely a consolidation for informational purposes, the economic impact of this amendment is considered so minimal or nonexistent as to not require a full regulatory evaluation.

READEX FICHE

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Part 11—General Rule-Making Procedures

Subpart A—General

§ 11.1 Applicability.

This Part applies to the issue, amendment, and repeal of—

(a) Rules and orders for airspace assignment and use issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and

(b) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the Administrator decides to use public rule-making procedures in such a case.

§ 11.11 Docket.

Official FAA records relating to rule-making actions, including (a) proposals, (b) notices of proposed rule making, (c) written material received in response to notices, (d) petitions for rule making and exemptions, (e) written material received in response to summaries of petitions for rule making and exemptions, (f) petitions for rehearing or reconsideration, (g) petitions for modification or revocation, (h) notices denying petitions for rule making, (i) notices granting or denying exemptions, (j) summaries required to be published under § 11.27, (k) special conditions required, as prescribed under §§ 21.16 or 21.101 (b) (2), (l) written material received in response to published special conditions, (m) reports of proceedings conducted under § 11.47, (n) notices denying proposals, and (o) final rules or orders are maintained in current docket form in the Office of the Chief Counsel. A public docket relating to rule-making actions taken by Regional Directors under Subparts D and E of this Part is maintained in the office of the Regional Counsel. A public docket relating to rule-making actions taken by each Regional Director on petitions for exemption filed under Part 139 of this chapter is maintained in the office of the Regional Counsel for that Region. Any interested person may examine any docketed material at that office, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504), and may obtain a photostatic or duplicate copy of it upon paying the cost of the copy.

[§ 11.13 Delegation of authority.

[All agency officials, with regulatory issuance authority, may exercise the authority of the Administrator to make certifications, findings and determinations under the Regulatory Flexibility Act (Pub. L. 96-354) with regard to any rulemaking document for which issuance authority is delegated by other sections in this Part.]

§ 11.15 Emergency exemptions.

If, as a result of enemy attack on the United States, communication with Washington headquarters of FAA is or may be disrupted or materially impaired, petitions for exemptions from any rule issued under Titles III or VI of the Federal Aviation Act of 1958 (air safety rules and air traffic and airspace rules) may also be filed at the nearest FAA Regional Office, Area Office, air traffic control facility or office, Air Carrier District Office, General Aviation District Office, International Field Office, or FAA Representative in the Europe, Africa, and Middle East Region or in the Pacific Region. The procedural requirements of §§ 11.53, 11.71, and 11.91, and the publication and comment procedures of § 11.27 need not be followed.

Under these emergency conditions, the FAA inspectors or officers in charge of these offices may grant, in whole or in part and subject to reasonable conditions or limitations, such exemptions or may deny petitions for such exemptions; may issue such exemptions to named persons or in blanket form on their own initiative; and may limit or terminate exemptions so issued by them or by offices whose jurisdiction they may have assumed. Exemptions issued under these circumstances are at all times subject to modification and termination by the Director or Acting Director or officer in charge of the Region concerned, subject to ultimate action by the Director or Acting Director of the Service concerned.

Subpart B—Rules Other Than Airspace Assignment and Use

§ 11.21 Scope.

(a) This subpart applies to substantive rules, other than those relating to airspace assignment and use.

(b) Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the FAA issues notices of proposed rule making and allows interested persons to participate in rulemaking proceedings involving a substantive rule.

(c) Unless the Administrator determines that notice and rule-making procedures are to be followed, interpretive rules, general statements of policy, and rules of FAA organization, procedure, or practice are prescribed as final without notice or rule-making procedures.

(d) Whenever the Administrator so determines, the procedures prescribed in this subpart apply to exempting persons and classes from the requirements of a substantive rule.

§ 11.23 Initiating rule-making procedures.

The Administrator initiates rule-making procedures upon his own motion. However, in doing so, he considers the recommendations of other agencies of the United States and the petitions of other interested persons.

§ 11.25 Petitions for rule making or exemptions.

(a) Any interested person may petition the Administrator to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of § 11.21, or for a temporary or permanent exemption from any rule issued by the Federal Aviation Administration under statutory authority.

(b) Each petition filed under this section must—

(1) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 120 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate—

(i) To the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport, in the case of any petition for exemption filed under Part 139 of this chapter;

(ii) To the Director having Airworthiness Directive responsibility for the product involved in the case of petitions filed in accordance with Subpart E of this Part.

(iii) To the Federal Air Surgeon (AAM-1), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, in the case of a petition for exemption filed under Part 67 of this chapter; and

(iv) To the Rules Docket (AGC-204), Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591, in all other cases;

(3) Set forth the text or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interests of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each air-

§ 11.87 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice.

(b) Whenever the Director determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

§ 11.89 Adoption of final rules.

In any case in which a Notice of Proposed Rule Making was issued, the Director completes his analysis and evaluation of the information, views, and arguments submitted with respect to the proposed rule and studies the entire matter. In any case in which the subject matter is, for good cause, submitted to the rule-making process without notice, the Director initiates the procedure. The Chief Counsel determines whether legal justification exists for the action proposed, and thereafter prepares an appropriate rule or notice of denial. The rule or notice of denial is then submitted to the Director for his action.

§ 11.91 Grant or denial of exemption.

(a) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption from an Airworthiness Directive.

(b) Whenever a petition is granted or denied under this section, the Director prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

§ 11.93 Petitions for reconsideration of rules.

(a) Any interested person may petition the Administrator for a rehearing on, or for reconsideration of, any Airworthiness Directive. Such a petition must be filed, in duplicate, within 30 days after the rule is published in the FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

[Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

[§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

[(a) *Purpose.* This subpart consolidates and displays the OMB assigned control numbers for the information collection requirements of the Federal Aviation Administration pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) which mandates that every collection requirement have a control number displayed in the Code of Federal Regulations.

[(b) *Display.*

TABLE

14 CFR Part or Section Identified and Described	*Current OMB Control No.*
Part 21	2120-0018
Part 39	2120-0056
Part 43	2120-0020
§§ 47.3, 47.5	2120-0029
§ 47.7	2120-0029, 2120-0042
§ 47.8	2120-0042
§ 47.9	2120-0029, 2120-0042
§§ 47.11 thru 47.47	2120-0042
§ 47.63	2120-0024
Part 49	2120-0043
§ 61.3	2120-0034
§§ 61.13 thru 61.197	2120-0021
Part 63	2120-0007
Part 65	2120-0022
§ 67.11	2120-0034, 2120-0052, 2120-0059, 2120-0069
§ 67.19	2120-0052, 2120-0059, 2120-0069
§ 67.23	2120-0002
Part 77	2120-0001
§ 91.1	2120-0026
§ 91.3	2120-0005
§ 91.18	2120-0027
§§ 91.24 thru 91.34	2120-0005

TABLE—*Continued*

14 CFR Part or Section Identified and Described	*Current OMB Control No.*
§§ 91.39	2120-0027
§ 91.41 thru 91.55	2120-0005
§ 91.63	2120-0027
§ 91.75	2120-0005
§ 91.83	2120-0026
§ 91.97 thru 91.217	2120-0005
Part 91, Subpart E	2120-0082
Part 101	2120-0027
Part 105	2120-0027
Part 107	2120-0075
Part 108	2120-0098
Part 121 (except as below)	2120-0008
§§ 121.3 thru 121.155	2120-0008, 2120-0028
§ 121.723	2120-0008, 2120-0025
Part 123	2120-0028
Part 125	2120-0085
Part 127	2120-0028
Part 133	2120-0044
Part 135 (except as below)	2120-0039
§§ 135.11 thru 135.17	2120-0028, 2120-0039
§ 135.43	2120-0025, 2120-0039
§ 135.415	2120-0003, 2120-0039
Part 137	2120-0049
Part 139	2120-0063
Part 141	2120-0009
Part 143	2120-0021
Part 145 (except as below)	2120-0010
§ 145.63	2120-0003, 2120-0010
Part 147	2120-0040
Part 149	2120-0012
Part 152	2120-0065, 2120-0080
Part 157	2120-0036
§ 159.13	2120-0061
§ 159.93	2120-0084
Part 171	2120-0014
§ 183.11	2120-0002, 2120-0033, 2120-0035
§§ 183.15 thru 183.17	2120-0033
§§ 183.25 thru 183.31	2120-0035
Part 199	2120-0081
SFAR 44-5 Appendix	2120-0502

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CHANGE 16

EFF. JANUARY 31, 1984
JANUARY 1, 1984

Part 11—General Rule-Making Procedures

This Change incorporates Amendment 11-24, Development of Major Repair Data, effective January 31, 1984, in Federal Aviation Regulation Part 11.

Also included in this Change is Special Federal Aviation Regulation 27-5, Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes: Compliance with Revised EPA Emission Standards and Test Procedures, effective January 1, 1984.

The effective date of the new material, which is marked by black brackets, is carried at the bottom of each page. Because SFAR 27 rule is revised in its entirety, only the first and last lines on each page are bracketed. Preamble pages and rearranged pages having no new material carry the Change number only.

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I	8/17/81	I	8/17/81
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P-67	Ch. 15	P-67 thru P-69	Ch. 16
10-1 and 10-2	9/30/83	10-1	9/30/83
		10-2	1/31/84; 1/1/84
31	Ch. 12	31	Ch. 12
33	Ch. 12	32 thru 39	Ch. 16
34 thru 41	12/1/80	41 thru 49	1/1/84

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Section		*Page*
Preambles		P-1
	Subpart A—General	
11.1	Applicability	1
11.11	Docket	1
[11.13	Delegation of authority]	1
11.15	Emergency exemptions	1
	Subpart B—Rules Other Than Airspace Assignment and Use	
11.21	Scope	2
11.23	Initiating rule-making procedures	2
11.25	Petitions for rule making or exemptions	2
11.27	Action on petitions for rule making or exemptions	3
11.28	Action on special conditions	4
11.29	Notice of proposed rule making	4
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11.47	Proceeding after notice of proposed rule making	6
11.49	Adoption of final rules	6
11.51	Denial of petition for rule making	7
11.53	Grant or denial of exemption	7
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11.65	Issue of notice of proposed rule making	8
11.67	Hearings	9
11.69	Adoption of rules or orders	9
11.71	Exemptions	9
11.73	Petitions for rehearing or reconsideration of rules or orders	10
11.75	Petitions for revoking or modifying rules or orders	10

Section *Page*

Subpart E—Processing of Airworthiness Directives

11.81 Scope 10
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11.93 Petitions for reconsideration of rules 10–1

Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act 10–1

Special Federal Aviation Regulation 27—[Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes: Compliance with Revised EPA Emission Standards and Test Procedures] (*Preamble*) 11
SFAR 27–1 (*Preamble*) 15
SFAR 27–2 (*Preamble*) 17
SFAR 27–3 (*Preamble*) 19
SFAR 27–4 (*Preamble*) 23
[SFAR 27–5 (*Preamble*) 32
[SFAR 27 (*Rule*)] 41

11.101(b) provides the display by using a table containing the 14 CFR part or section that states the burden alongside the burden's current OMB control number.

Comments

This amendment consolidates information already approved and concerns intra-agency procedural matters upon which public comment would be useful or necessary. Because this amendment is editorial in nature, notice and public procedure are unnecessary.

ADOPTION OF THE AMENDMENT

Accordingly, a new Subpart F is added to 14 CFR Part 11, effective September 30, 1983.

AUTHORITY: Sec. 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

NOTE: Because this amendment merely consolidates for display control numbers previously approved by the OMB, the FAA has determined that it is editorial in nature and imposes no new burden on any person. Therefore, it has been determined that this amendment involves a regulation that is not (1) major under Executive Order 12291 or (2) significant under the Department of Transportation Policies and Procedures (44 FR 11034; February 26, 1979). In addition, because it involves merely a consolidation for informational purposes, the economic impact of this amendment is considered so minimal or nonexistent as to not require a full regulatory evaluation.

Amendment 11-24
Development of Major Repair Data
Adopted: January 6, 1984 **Effective: January 31, 1984**

(Published in 49 FR 4354, February 3, 1984)

SUMMARY: This amendment extends the effectivity of Special Federal Aviation Regulation (SFAR) No. 36, which provides that repair stations, air carriers, air taxis, and commercial operators of large aircraft may accomplish major repairs using self-developed repair data which have not been specifically approved by the FAA. In addition, the regulation will continue to provide relief for persons from the burden of obtaining FAA approval of repair data on a case-by-case basis and allow time for the FAA to incorporate the SFAR provisions into the regulations.

Comments must be received on or before April 3, 1984.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 17551, 800 Independence Avenue, SW., Washington, D.C. 20591, or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, D.C. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT:

Angelo R. Mastrullo, General Aviation and Commercial Branch, AWS-340, Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone: (202) 426-8203.

SUPPLEMENTARY INFORMATION:

Background

SFAR 36, which became effective on January 23, 1978, was issued to relieve qualifying certificated air carriers, air taxis, commercial operators, and repair stations of

the burden of obtaining FAA approval of data developed by them for major repairs on a case-by-case basis. The certificate holders eligible for authorization under the SFAR are those employing adequately trained personnel and complying with specified procedural requirements.

SFAR 36 was adopted as an interim rulemaking action to obtain information upon which to base a permanent rule change. However, most of the affected certificate holders did not utilize the provisions of SFAR 36 until it was well into its second year and near its expiration date of January 23, 1980. Since the FAA did not have sufficient data upon which to base a permanent rule change, the termination date for SFAR 36 was extended an additional 2 years, to January 23, 1982.

The FAA initiated rulemaking to consolidate certain authorizations along with those issued under SFAR 36 and make them a permanent part of the Federal Aviation Regulations. However, this rulemaking action was not completed and the termination date for SFAR 36 was extended for an additional 2 years, to January 23, 1984. Each authorization issued under this SFAR was made effective from the date of issuance until January 23, 1984. There are presently more than 20 certificated air carriers and repair stations holding SFAR 36 authorizations. For reasons unrelated to the subject matter of SFAR 36, the rulemaking project that had been continuing was canceled, and no new project is presently being developed. Consequently, to provide continuity and avoid hardship to those relying on SFAR 36 as it presently exists, the FAA finds it necessary to extend the effectivity of SFAR 36 for an additional 5 years, to January 23, 1989.

Paperwork Reduction Act

Information collection requirements in this regulation (SFAR 36) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511) and have been assigned OMB Control Number 2120-0507.

Good Cause Justification for Immediate Adoption

The termination date for SFAR 36 and the authorizations issued under SFAR 36 is January 23, 1984. The reasons which justified the adoption of SFAR 36 still exist; and to avoid hardship to those relying on the provisions of SFAR 36, it is in the public interest to extend the termination date of SFAR 36 from January 23, 1984, to January 23, 1989. So that previously authorized certificate holders will not be subjected to the unnecessary burden of requalifying upon expiration of the initial 2-year period, the amendment provides that each authorization issued under this SFAR has an effective period from the date of issuance until January 23, 1989. This rule extension should provide ample time for provisions to be incorporated into a permanent rule change.

Since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures hereon are unnecessary, and the amendment may be made effective in less than 30 days. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before April 3, 1984, will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

ADOPTION OF THE AMENDMENT

In consideration of the following, the Federal Aviation Regulations are amended effective January 31, 1984, by amending § 11.101 by adding a new OMB Control Number to the table in paragraph (b).

(Sections 313(a), 604 and 607, Federal Aviation Act of 1958 as amended (49 U.S.C. 1354(a), 1421, 1424, and 1427); 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983)

NOTE: The FAA has determined that this document involves a rule change which imposes no additional burden on any person. Accordingly, it has been determined that: the rule change does not involve a major action under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and its anticipated impact is so minimal that an evaluation is not required.

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§ 11.87 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice.

(b) Whenever the Director determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

§ 11.89 Adoption of final rules.

In any case in which a Notice of Proposed Rule Making was issued, the Director completes his analysis and evaluation of the information, views, and arguments submitted with respect to the proposed rule and studies the entire matter. In any case in which the subject matter is, for good cause, submitted to the rule-making process without notice, the Director initiates the procedure. The Chief Counsel determines whether legal justification exists for the action proposed, and thereafter prepares an appropriate rule or notice of denial. The rule or notice of denial is then submitted to the Director for his action.

§ 11.91 Grant or denial of exemption.

(a) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption from an Airworthiness Directive.

(b) Whenever a petition is granted or denied under this section, the Director prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

§ 11.93 Petitions for reconsideration of rules.

(a) Any interested person may petition the Administrator for a rehearing on, or for reconsideration of, any Airworthiness Directive. Such a petition must be filed, in duplicate, within 30 days after the rule is published in the FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

[Subpart F—Agency Information Collection Requirements Under the Paperwork Reduction Act

[§ 11.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

[(a) *Purpose.* This subpart consolidates and displays the OMB assigned control numbers for the information collection requirements of the Federal Aviation Administration pursuant to the Paperwork Reduction Act of 1980 (Title 44, U.S.C. Chapter 35) which mandates that every collection requirement have a control number displayed in the Code of Federal Regulations.

[(b) *Display.*

TABLE

14 CFR Part or Section Identified and Described	*Current OMB Control No.*
Part 21	2120-0018
Part 39	2120-0056
Part 43	2120-0020
§§ 47.3, 47.5	2120-0029
§ 47.7	2120-0029, 2120-0042
§ 47.8	2120-0042
§ 47.9	2120-0029, 2120-0042
§§ 47.11 thru 47.47	2120-0042
§ 47.63	2120-0024
Part 49	2120-0043
§ 61.3	2120-0034
§§ 61.13 thru 61.197	2120-0021
Part 63	2120-0007
Part 65	2120-0022
§ 67.11	2120-0034, 2120-0052, 2120-0059, 2120-0069
§ 67.19	2120-0052, 2120-0059, 2120-0069
§ 67.23	2120-0002
Part 77	2120-0001
§ 91.1	2120-0026
§ 91.3	2120-0005
§ 91.18	2120-0027
§§ 91.24 thru 91.34	2120-0005

TABLE—*Continued*

14 CFR Part or Section Identified and Described	*Current OMB Control No.*
§§ 91.39	2120-0027
§ 91.41 thru 91.55	2120-0005
§ 91.63	2120-0027
§ 91.75	2120-0005
§ 91.83	2120-0026
§ 91.97 thru 91.217	2120-0005
Part 91, Subpart E	2120-0082
Part 101	2120-0027
Part 105	2120-0027
Part 107	2120-0075
Part 108	2120-0098
Part 121 (except as below)	2120-0008
§§ 121.3 thru 121.155	2120-0008, 2120-0028
§ 121.723	2120-0008, 2120-0025
Part 123	2120-0028
Part 125	2120-0085
Part 127	2120-0028
Part 133	2120-0044
Part 135 (except as below)	2120-0039
§§ 135.11 thru 135.17	2120-0028, 2120-0039
§ 135.43	2120-0025, 2120-0039
§ 135.415	2120-0003, 2120-0039
Part 137	2120-0049
Part 139	2120-0063
Part 141	2120-0009
Part 143	2120-0021
Part 145 (except as below)	2120-0010
§ 145.63	2120-0003, 2120-0010
Part 147	2120-0040
Part 149	2120-0012
Part 152	2120-0065, 2120-0080
Part 157	2120-0036
§ 159.13	2120-0061
§ 159.93	2120-0084
Part 171	2120-0014
§ 183.11	2120-0002, 2120-0033, 2120-0035
§§ 183.15 thru 183.17	2120-0033
§§ 183.25 thru 183.31	2120-0035
Part 199	2120-0081
SFAR 44-5 Appendix	2120-0502
[1][SFAR 36	2120-0507
[2][SFAR 27-5	2120-0508]

Certification and Engine Approval Actions

Sections 15, 17, 19, and 21 of SFAR 27 have been revised to reflect the EPA requirements applicable to in-use JT3D engines. Those revisions are unchanged from the proposed amendment. No commenter addressed the issues presented.

Since the EPA amendment to § 87.31(c) concerning in-use JT3D engines affects the continued operation of airplanes powered by JT3D engines, it raised questions concerning the need and the appropriateness of including references to in-use JT3D engines in the certificate actions covered by §§ 15, 17, and 21 and the approval actions in § 19. After reviewing these current provisions in light of the EPA amendment, it would be misleading to issue certificates or make approvals after the final compliance date for engines that cannot legally be operated in the United States. This amendment is consistent with the treatment given Class T2 and T4 engines and T3 engines manufactured on and after January 1, 1978. However, operation of non-complying, in-use JT3D engines manufactured before January 1, 1978, is not completely prohibited until January 1, 1985. The EPA's 1981 and 1983 interim compliance dates for in-use JT3D engines do not apply to certificate and approval actions for JT3D engines manufactured before January 1, 1978. Thus, if the FAA set any cutoff date for certifications and approvals prior to January 1, 1985, (the final compliance date in EPA's Part 87 that applies to all JT3D engines) would be more stringent than the EPA rule. This amendment uses that date as the cutoff date for further certificate and approval action, regardless of the date of application.

As each Class T3 engine is modified to meet the smoke emissions standards, the model designator on the engine identification plate must be modified in accordance with P&W Service Bulletin 4694 in order to comply with § 19(b) of SFAR 27.

Operation

Section 25 has been amended to reflect EPA's Part 87 phased compliance schedule for in-use JT3D-powered airplanes operated in the United States. Comments recommending that FAA delete the interim compliance dates cannot be acted upon. As discussed earlier, such a change is outside the scope of FAA's authority.

Codification

The proposal indicated that consideration is being given to codifying permanently the FAA airplane emissions regulations (SFAR 27) under Title 14 of the Code of Federal Regulations (CFR). There are several options being considered, including (1) redistributing the provisions of SFAR 27 among the various parts of the code as appropriate, e.g., Part 21, Part 33, Part 45, Part 91, etc., and (2) continuing to provide a single code unit for engine emissions by establishing a new Part in Title 14, e.g., Part 34, with references to other affected parts. Three commenters supported the desirability of permanent codification and none opposed such action. One commenter suggested that Part 33 "Airworthiness Standards: aircraft engines" be amended to include the provisions of SFAR 27. The other commenters suggested permanent codification in a single separate unit. (One suggested numbering it Part 34.) The FAA is continuing its review of the issues before taking action to modify the form (not substance) of the regulation.

ADOPTION OF THE AMENDMENT

Accordingly, 14 CFR Chapter I, Special Federal Aviation Regulation (SFAR) 27 is amended, effective December 1, 1980.

(Sec. 232, Clean Air Act, as amended December 31, 1970, PL. 91-604 (42 U.S.C. § 1875f-10) as delegated (36 FR 3733); 40 CFR Part 87; Secs. 307(c), 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348(c), 1345(a), 1421, and 1423; Sec. 6c, Department of Transportation Act (49 U.S.C. § 1655(c).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the first person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

NOTE.—The incorporations by reference contained in this amendment were approved by the Director of the Federal Register under 5 U.S.C. § 552(a) and 1 CFR Part 51 on August 18, 1980.

Special Federal Aviation Regulation 27-5

Fuel Venting and Exhaust Emission Requirements For Turbine Engine Powered Airplanes: Compliance with Revised EPA Emission Standards and Test Procedures

Adopted: December 8, 1983 **Effective: January 1, 1984**

(Published in 48 FR 56735, December 23, 1983)

SUMMARY: This amendment to the FAA airplane emissions rule is necessary because of the revised requirements of 40 CFR Part 87, Control of Air Pollution from Aircraft and Aircraft Engines; Emission Standards and Test Procedures as amended effective January 31, 1983 (47 FR 58462). 40 CFR Part 87 includes new exhaust emission requirements for all aircraft engines manufactured on or after January 1, 1984. This amendment is in accordance with section 232 of the Clean Air Act, as amended, (42 USC § 7401) and the authority delegated to the Administrator of the FAA by the Secretary of Transportation.

COMPLIANCE—January 1, 1984 or as noted. The Director of the FEDERAL REGISTER approved the incorporation by reference of the compliance procedures set forth in Appendices 2 through 6 of ICAO ANNEX 16 Volume II—Aircraft Engine Emissions, dated February 18, 1982, effective January 1, 1984.

FOR FURTHER INFORMATION CONTACT:

Nicholas P. Krull, Air Quality Division (AEE-300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591, telephone (202) 755-1851).

SUPPLEMENTARY INFORMATION:

HISTORY

Under section 232 of the Clean Air Act of 1970, as amended, (the Act) (42 USC § 7401), the FAA has a duty to issue regulations that ensure compliance with all aircraft emission standards promulgated by the EPA pursuant to section 231 of the Act. The EPA aircraft emission standards are currently prescribed in EPA Regulations Part 87 (40 CFR Part 87), originally issued on July 6, 1973, and published in the Federal Register (38 FR 19088) on July 17, 1973.

Pursuant to § 232 of the Act, on December 26, 1973, the FAA issued Special Federal Aviation Regulation (SFAR) 27 (38 FR 35437; December 28, 1973). The purpose of SFAR 27 was to ensure compliance with aircraft and aircraft engine emission standards and test procedures issued by the EPA in 40 CFR Part 87.

SFAR 27, as originally issued, governed compliance with only those standards and procedures in EPA Part 87 that were to become effective on February 1, 1974. On December 23, 1974, the FAA issued SFAR 27-1 (39 FR 45008; December 30, 1974) to require compliance with the fuel venting emission standards in EPA Part 87 that became effective on January 1, 1975. SFAR 27-2, effective January 1, 1976 (40 FR 55311; November 28, 1975), governs compliance with smoke emissions standards in EPA's Part 87 applicable to new and in-use aircraft turbofan or turbojet engines with a rated power of 29,000 pounds thrust or greater, that are designed for installation and operation on subsonic airplanes. SFAR 27-3, effective January 1, 1978 (42 FR 64876; December 29, 1977) regulates compliance of JT3D engines manufactured on and after January 1, 1978, with smoke emissions standards in EPA's Part 87. Finally, SFAR 27-4, effective December 1, 1980 (45 FR 71960; October 30 1980), was issued to require phased compliance of in-use JT3D engines beginning on January 1, 1981, with total compliance required by January 1, 1985. Pursuant to § 3(b) of SFAR 27, the requirement for

compliance of in-use JT3D engines was automatically deleted when the EPA deleted the requirement from 40 CFR Part 87 (48 FR 2716; January 20, 1983).

On December 30, 1982, the EPA completed rulemaking which revised 40 CFR Part 87 and republished the rule in its entirety (47 FR 58462; December 30, 1982). The revised rule contains a number of changes in definitions as well as new standards for smoke and unburned hydrocarbon emissions. The compliance date for the new smoke and unburned hydrocarbon emission standards has been scheduled to take effect January 1, 1984. On September 23, 1983, the FAA issued Notice No. 83-12 (48 FR 43637; September 23, 1983), which proposed a revised SFAR 27-5 to include the new requirements of 40 CFR Part 87. The comment period closed on October 24, 1983. A number of comments were received and they are discussed below along with the discussion of the amendment.

DISCUSSION OF THE AMENDMENT

Overview

When the EPA originally issued 40 CFR Part 87, in 1973, it was recognized that some portion of the standards could be implemented in a very short time period while other portions would require a much longer time period for development and testing. Accordingly, the FAA proceeded to promulgate enforcement regulations for the near term requirements in the form of a Special Federal Aviation Regulation, SFAR No. 27. Since that time, the EPA has recognized that some of the longer term requirements were either unneeded or practically unattainable. Those longer term requirements, originally scheduled to become effective in 1978, have been delayed until January 1, 1984, and have been extensively revised. Revised regulation 40 CFR Part 87 now contains all of the standards and the last of the effectivity dates for implementation. Pursuant to section 232 of the Clean Air Act, as amended, the FAA is required to promulgate enforcement regulations for all of the standards in 40 CFR Part 87. Therefore, this amendment is consistent with the EPA revisions to 40 CFR Part 87 and FAA's statutory duty under the Clean Air Act.

Deletion of specific reference to previous findings of compliance

SFAR 27 contained specific references to manufacturer's service bulletins containing instructions for modifications which, if incorporated in engines, constituted satisfactory evidence of compliance with 40 CFR Part 87. The references also included engine model designations which had previously been found to comply with the smoke standards of 40 CFR Part 87. That list had become long and required frequent updating as new engine models were found to demonstrate compliance with the standards. As revised, 40 CFR Part 87 contains new and in some cases more stringent standards for all turbojet and turboprop engines manufactured after January 1, 1984. The listing of all of these model designations would become cumbersome and impractical requiring frequent revision of the Federal Aviation Regulations. The FAA now deletes those specific references and instead, SFAR 27-5 states that "All methods of demonstrating compliance and all model designations previously having been found acceptable to the Administrator of the FAA shall be deemed to continue to be an acceptable demonstration of compliance with the specific standards for which they were approved."

Practical interpretation of the requirement for total compliance

The standards established by the EPA are applicable to each engine of the types and upon the dates specified in 40 CFR Part 87. Taken literally this would require that every engine to which the standards apply must demonstrate compliance with the standards. This construction would require testing each and every engine manufactured on or after January 1, 1984, unless specifically exempted. The EPA recognized in the preamble to 40 CFR Part 87, and specifically in § 87.89, that exhaust emission compliance testing of every engine would be excessively costly and accepted the need to substitute a preproduction certification program in place of extensive testing of all newly produced and in service

engines. Section 87.89 has delegated the definition of this substitute certification program to the FAA with the proviso that the FAA establish the level of confidence required, provide a practical interpretation of the requirement for total compliance, establish a testing program to ensure compliance, and obtain the approval of the Administrator of the EPA prior to January 1, 1984. Consistent with EPA's position regarding compliance verification (47 FR 58469), the FAA understands that this compliance verification policy is applicable to all of the standards in 40 CFR Part 87. It should be clearly understood that any substitute certification program must have the concurrence of the Administrator of the EPA.

In developing the United States position on the International Civil Aviation Organization (ICAO) Standards and Recommended Practices for Aircraft Engine Emissions, the FAA consulted extensively with the EPA on acceptable practical interpretations of a requirement for total compliance and a testing program to ensure compliance. At that time the EPA indicated that the minimum acceptable levels would be 90% confidence that 95% of the engines would meet the gaseous emission standards and a 90% confidence that every engine would meet the smoke standards. ICAO adopted such a compliance procedure based upon a composite analysis of historic engine to engine variabilities. Since the EPA has stressed the desirability of maintaining commonality with ICAO, the FAA adopts the compliance procedure defined in Appendix 6 to ICAO Annex 16 Volume II—Aircraft Engine Emissions, dated February 18, 1982. The Administrator of the EPA has concurred in FAA adoption of the ICAO compliance procedure. The FAA continues to solicit recommendations for equivalent procedures and will give each recommendation full consideration if it is accompanied by substantive supporting data. Should an equivalent or better procedure be received, the FAA will seek EPA concurrence with that as an alternate compliance procedure. The FAA cannot, however, adopt any proposed compliance procedure unless it has the concurrence of the Administrator of the EPA.

Comments in response to Notice 83–12

A total of seven written and three oral comments were received in response to Notice 83–12. The majority of those comments concerned the alleged redundancy of the regulation, the marking and identification requirements, and the exemption and reporting procedures. At least two comments indicated some continuing confusion over the definition of the term "date of manufacture". All of the comments have been reviewed and, as discussed below, the proposed rule has been revised to reflect meritorious comments and suggestions within the scope of Notice 83–12.

Redundancy of the proposed compliance requirements

One commenter noted that the proposed rule imposes compliance requirements upon the engine manufacturer, installers of engines, aircraft manufacturers, and airplane operators. The commenter felt that compliance need only be the responsibility of the engine manufacturer. From a legal viewpoint, the Clean Air Act requires that the regulations "shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of *any* certificate authorized by the Federal Aviation Act or the Department of Transportation Act." (42 USC 7572(a), *emphasis added*). From a practical and legal viewpoint, the engine manufacturer can only maintain control over the engines while they are in his possession. Yet, situations may arise where compliance may subsequently be required. For example, an engine originally manufactured and sold for export may be exempt from the standards but that same engine may not be exempt if it is resold for use in the United States as a civil aircraft engine. In that event, it would no longer be the manufacturer's responsibility to ensure compliance but rather the operator or the new owner. Similarly, an engine originally sold by a manufacturer for use in general aviation is not subject to the unburned hydrocarbon standard. However, that standard is applicable if the rated output exceeds 26.7 kilonewtons and the engine is installed and operated in the U.S. by an air carrier or a

commercial operator. For these and other reasons, it is necessary to impose compliance requirements upon airplane operators, mechanics, and aircraft manufacturers, as well as the engine manufacturer. It also explains the justification for requiring that the engine exhaust emission compliance status be clearly and permanently identified in a prominent location on each powerplant.

Exemption Requirements

As stated in Notice 83-12, the EPA has retained primary rulemaking authority over the emissions standards, and the test procedures for control of those standards, in all aircraft. However, under the revised Part 87, responsibility for initial evaluation and processing of requests for certain specified exemptions has been transferred to the Secretary of the Department of Transportation (DOT). Several exemptions listed at 40 CFR § 87.7 clearly fall within the discretion of the FAA and EPA and therefore can only be considered by utilizing the procedural requirements of 14 CFR Part 11. These exemptions include 40 CFR § 87.7(a)(4), § 87.7(c), and § 87.7(d). However, several commenters have asked if it was the FAA's intent to require a formal exemption request for the remainder of the exemptions listed under 40 CFR § 87.7. To make the requirements clear, each of the remaining exemptions will be discussed in turn.

40 CFR § 87.7(a)(1) establishes an exemption for engines installed on an aircraft intended for export. The FAA has an obligation to ensure that exported engines not in compliance with the emission requirements are not operated in the United States. With this objective in mind, the FAA has determined that the marking and recording requirements discussed below, together with the existing Part 21, Subpart L requirements for Export Airworthiness Approvals, will ensure that exported engines cannot be returned for use in the United States without emission modification to bring them into compliance with SFAR 27. Accordingly, the final rule has been amended to require that any engine manufactured under the provisions of 40 CFR § 87.7(a)(1) for export on or after January 1, 1984, must have marked upon the engine manufacturer's identification plate (I.D. plate) the designator NON-US. In addition, the permanent powerplant record (engine logbook or equivalent document) must note that the exempt engine is not suitable for operation within the United States. Finally, when the exempt engine is installed in an aircraft, the aircraft's logbook must note that the aircraft "may not be operated within the United States." This notation may be removed if the engine is later modified to comply with 40 CFR Part 87, or becomes specifically exempted from the applicable emission requirements. These changes are necessary to avoid requiring engine manufacturers to obtain a formal exemption or report the serial number of engines intended for export. The later requirement would be duplicative and unnecessary in light of current regulation and policy.

40 CFR § 87.7(a)(2) permits non complying engines to be flown for short durations to a base where maintenance can be performed, to a point of storage, or for the purpose of returning an aircraft to service. Since § 87.7(a)(2) in effect establishes an applicability criteria for Part 87, the FAA does not feel that the procedural requirements of 14 CFR Part 11 must be followed in order to legally conduct this type of operation. Instead of requiring an operator to "petition" for a nondiscretionary exemption, the FAA recognizes a need for prior notification of intent to conduct such operations. Therefore, though the procedural requirements of 14 CFR Part 11 need not be followed, prior FAA authorization is required. Since the FAA views this type of operation as analogous to those requiring a special flight permit, to obtain such authorization, the operator should follow the procedures outlined in 14 CFR § 21.199.

40 CFR § 87.7(a)(3) allows for flights of short duration at infrequent intervals if conducted as part of an official visit by representatives of foreign governments. After careful consideration, the FAA has determined that the infrequency of these types of operations does not warrant prior FAA approval of any sort. Therefore, no additional FAA approval is necessary if the flight is indeed of limited duration and is conducted exclusively for the purpose of an official foreign visit.

40 CFR § 87.7(b) provides for an exemption for engines operated in the United States when certain low production limits are maintained. The FAA has an obligation to ensure that the low production limits of 40 CFR § 87.7(b) are not exceeded. The only adequate method to ensure compliance with the low production limits is to require a formal exemption request. Consequently, each time a manufacturer intends to use or sell a non complying engine in the United States, a request for exemption utilizing the procedural requirements of 14 CFR Part 11 must be made. To implement this procedure, a manufacturer should request an exemption for any group of 20 or less engines that a manufacturer intends to produce under a given type certificate during a given calendar year. Assuming that there are no irregularities, the FAA will grant the exemption on condition that the manufacturer advise the FAA of that engine's serial number and type certificate number on or before the last day of the month following the date of its manufacture. In addition, as will be explained later, that engine must be labelled as EXEMPT at FAA Headquarters which will contain the serial number of the engine as part of each exemption. At the same time, the manufacturer must note in the permanent powerplant record that the engine is not required to meet the emissions standards of 40 CFR Part 87 by reason of the low production exemption. In a related issue, several commenters have stated that it is impossible to project the market for specified engines in advance of the manufacture date and therefore it is unreasonable to require manufacturers to advise the FAA of exempted engines "on or before the date of manufacture" as proposed in Section 9(c). The FAA agrees with these commenters and has revised the final rule to provide relief in several ways. First, as adopted, the final rule requires that a manufacturer advise the FAA of the serial numbers of only those engines which have been granted a specific exemption pursuant to 14 CFR Part 11. In addition, the manufacturer may wait until the last day of the month following the date of the engine's manufacture to provide the FAA with this information.

Date of Manufacture

Although the identical definition has been part of SFAR-27 for some time, several comments were received which indicate that the term "Date of Manufacture", was misunderstood or subject to misinterpretation. One commenter expressed a desire to interpret "date of manufacture" as the date of installation on an airplane or even the date of sale of that aircraft. A second commenter expressed concern that engines in transport from the engine manufacturer to an airframe manufacturer (or in inventory at a general aviation facility) on January 1, 1984, would be subject to the revised 40 CFR Part 87 requirements. Both interpretations are too broad. The meaning of the term "Date of Manufacture" was extensively discussed in the preamble to SFAR 27-3 adopted December 21, 1977, and remains unchanged. However, to further clarify, the date on which an engine is "manufactured" is the date on which the engine is originally approved by the FAA. An engine is considered to be approved by the FAA when it is produced under an FAA Production Certificate issued under the provisions of 14 CFR Part 21, Subpart G, or under a Type Certificate Only issued under the provisions of 14 CFR Part 21, Subpart F. In addition, the engine must have been determined by the manufacturer to be in conformity with its type design and in a condition for safe operation in accordance with 14 CFR § 21.165 or § 21.130 as appropriate. Evidence of this approval is the manufacturer's fire proof identification (I.D.) plate that must be affixed to the engine in accordance with 14 CFR § 45.11 and § 45.13. In the case of a foreign manufactured engine, the "date of manufacture" is the date when the certificating authority of the country of manufacture issues a certifying statement to the effect that the engine conforms to its U.S. type design and is in a condition for safe operation.

Notice 83-12 proposed that the date of manufacture be included on the I.D. plate as part of the engine identification data. Several commenters have alleged that this requirement is redundant since the same information must be included as part of the permanent powerplant record that accompanies the engine, and because the date of manufacture is directly traceable to the engine serial number. Obviously, knowledge of the

date of manufacture is essential to the FAA inspector who must determine whether the revised requirements of 40 CFR Part 87 are applicable to the engine. For an engine with a long maintenance history, specific items of information may be difficult and time consuming to locate. In addition, since there is currently no requirement that serial numbers be reported to the FAA, no master list exists for an inspector to consult. In any event, an inspector should not be required to examine additional records to determine if a particular engine must comply with revised 40 CFR Part 87. It is therefore, the FAA's position that the only efficient method of determining whether a particular engine falls within the requirements of 40 CFR Part 87 is to have the date of manufacture indicated on the I.D. plate of each particular engine. The FAA also wishes to make clear that only those engines manufactured on or after January 1, 1984, covered by the applicable provisions of 40 CFR Part 87 will be required to include the date of manufacture as part of the identification data of the engine I.D. plate. This can be done simply by indicating the month and year in a clear and concise fashion. As an example, the FAA suggests a designation such as "01-84" be marked on the I.D. plate to indicate a manufacturing date of January, 1984, as a means of complying with the "date of manufacture" requirement. The FAA is aware of several manufacturers who already routinely include this information on the engine I.D. plate. Therefore, it should not be unduly burdensome to now require this information.

Another comment regarding the date of manufacture requirement was that such a date may be confusing and misleading to potential buyers of used engines. The commenter asserted that, as an example, a 15 year old engine may have had substantial service and parts replacement by the year 1999, leaving only the I.D. plate of 1984 vintage. However, this same commenter admitted that the date of manufacture, as well as data on major maintenance actions, parts replacement, and service bulletin compliance, is already included in the engine logbook which is required for each engine. Therefore, potential buyers of the engine should not be confused as to the engine's serviceability. Rather, the date of manufacture should help to clarify what maintenance and parts are required to keep in compliance with SFAR-27.

Identification Data and Recording Requirements

In addition to the date of manufacture, proposed Section 20 of Notice 83-12 requires that the I.D. plate show a designation that indicates the status of compliance with the applicable provisions of 40 CFR Part 87. Several commenters have asked what type of indication the FAA will require. They are concerned that some I.D. plates may have to be redesigned, thus adding to the cost of production, if additional I.D. plate information data is required. After careful consideration of this problem, the FAA has devised the following 6 character marking scheme which should cover all possible marking problems that may be encountered and at the same time minimize the use of space on plates already being utilized. For engines that, in all respects, comply with the requirements of SFAR-27 and 40 CFR Part 87, the I.D. plate must contain the designation COMPLY. Any engines subject to SFAR-27, but which has been granted an exemption under any provision found in 40 CFR § 87.7(a) (4), § 87.7(b), (c) or (d), must contain the designator EXEMPT on the I.D. plate. Finally, any engine which is exempt from the requirements of SFAR-27 by reason of it being manufactured for use outside the United States [40 CFR § 87.7(a) (1)], the I.D. plate must be marked with the designator NON-US. These designations have been approved by the FAA and have been made part of Section 20 in the final rule. Other designation codes are possible for use. However, in order to retain as uniform a marking scheme as possible, only those designators approved by the Administrator of the FAA may be utilized.

Several additional recording requirements have also been included in Section 20 of the final rule. Section 20(c) requires that, for any engine which has been granted an exemption by reason of any provision found in 40 CFR § 87.7(a) (1), (a) (4), (b), (c), or (d), an indication of the exemption and the reason for the grant must be inserted in the permanent powerplant record (engine logbook or equivalent document), that accompanies the engine,

at the time of manufacture. For example, if an engine has been granted an exemption by reason of it falling within the low production limits of 40 CFR § 87.7(b), the indication should state "EXEMPT for low production" or some similar notation. If an engine has been granted an exemption by reason of 40 CFR § 87.7(a) (1), the indication should read "NON-US, this engine does not comply with U.S. emissions requirements and must not be operated within the U.S."

Section 20(d) requires that, for engines rated in excess of 26.7 kilonewtons (Kn) that comply only with the required smoke number, the notation "May not be used as a commercial aircraft engine", as that term is defined in the SFAR 27-5, must be inserted in the permanent powerplant record at the time of engine manufacture. However, the I.D. plate designator COMPLY would be appropriate for these engines.

Finally, as previously mentioned, for aircraft assembled with engines exempt as a result of the export provision of 40 CFR § 87.7(a) (1), the notation "The aircraft may not be operated within the United States" must be inserted in the aircraft logbook at the time of engine installation. Other notations may be acceptable if prior FAA approval is obtained.

Stay of Emission Requirements for Class TF Engines

Subsequent to the publication of final rule 40 CFR Part 87, the General Aviation Manufacturers Association (GAMA) petitioned the Environmental Protection Agency for reconsideration of the smoke standard as applied to Class TF engines rated at 26.7 kn or below. Pursuant to an agreement between the parties, EPA has stayed the effectiveness of the smoke standard as applied to Class TF engines (48 FR 46481) October 12, 1983). The FAA has no way of knowing when or if EPA will lift this stay after reconsideration of the GAMA petition. Therefore, consistent with Section 3(b) of SFAR 27-5, the FAA will not enforce any additional requirements set forth in the final rule with respect to these engines while the stay is in effect. However, compliance with those requirements currently in effect will continue to be required. In addition, should EPA decide to reimpose any requirement previously imposed in 40 CFR Part 87, it will immediately become part of this rule.

Regulatory Impact Analysis

Prior to its enactment, the EPA determined that 40 CFR Part 87 would not constitute a major rule as defined by Executive Order 12291 (Order) and that it did not involve any significant increased costs or adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. enterprises to compete with those of other countries when compared to the present regulations. The information base, including the economic analyses on which this determination was made, is collected in Public Docket No. OMSAPC-78-1 at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, S.W., Washington, D.C. 20460. In addition, several of the final EPA reports concerning this subject can be found as part of the docket for this proposed rule. As the purpose of the proposed amendments to SFAR 27 is to promulgate rules for the enforcement of revised 40 CFR Part 87, as required by statute, the FAA has made a determination that an additional analysis would, at this point, be duplicate and inappropriate. As a result, no new economic analysis will be conducted with regard to revised SFAR 27.

Impact on Small Entities

Because of the limited classes of engines to which 40 CFR Part 87 applies, the EPA earlier determined that enactment of that regulation would not have a significant economic impact on a substantial number of small entities (as defined by the Small Business Act). Therefore, no Regulatory Flexibility Analysis was prepared. Interested persons may review the information on which this determination was made at the locations previously mentioned. As the EPA is in a much better position to make a determination in that regard, the FAA adopts that finding.

Environmental Analysis

Pursuant to Department of Transportation, "Policies and Procedures for Considering Environmental Impacts" (FAA Order 1050.1C, Appendix 7, paragraph 5a.; 45 FR 2279, 2280, January 10, 1980), the FAA is categorically excluded from providing an environmental analysis with regard to the proposed amendments to SFAR 27 because it is mandated by law to issue regulations to ensure compliance with the EPA aircraft emissions standards and the EPA has performed all required environmental analyses prior to the issuance of those standards.

OMB Review

This action was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Good Cause Justification

Section 553 of the Administrative Procedure Act provides that the publication of a substantive rule shall be made not less than 30 days before its effective date except as otherwise provided by the agency for good cause found and published with the final rule. The EPA published the revised requirement of 40 CFR Part 87 on December 30, 1982. At that time, EPA announced a compliance date for the revised requirements of January 1, 1984. As previously stated, the FAA has a duty to issue regulations that ensure compliance with all aircraft emission standards. The amendments to SFAR 27 were published in notice form and the comments relating to that notice have been addressed. Inasmuch as the amendments to SFAR 27 are mainly procedural and the compliance date for CFR Part 87 was announced 13 months in advance, the FAA feels that there is good cause to dispense with the full 30-day publication period before the effectivity of SFAR 27-5.

Paperwork Reduction Act

Information collection requirements contained in this regulation (sections 9d, 12 and 20) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511) and have been assigned OMB control number 2120-0508.

Accordingly, SFAR 27 of Title 14, Parts 11, 21, 43, 45, and 91 of the Code of Federal Regulations is revised and approved by the Office of Management and Budget under OMB control number 2120-0508, and § 11.101(b) of Subpart F is amended effective January 1, 1984.

NOTE: For reasons discussed earlier in the preamble: the FAA has determined that this document; (1) involves a proposed regulation which is not major under Executive Order 12291; (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities.

(Sec. 232, Clean Air Act, as amended Dec. 31, 1970, Pub. L. 91-604 (42 U.S.C. 1857f-10) as delegated (36 FR 3733); 40 CFR Part 87; secs. 307(c), 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)).

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Special Federal Aviation Regulation 27

Fuel Venting and Exhaust Emission Requirements For Turbine Engine Powered Airplanes

[Sec. 1 General requirements.

(a) This SFAR provides for the approval or acceptance by the Administrator of the FAA for the Administrator of the EPA of testing and sampling methods, analytical techniques, and related equipment not identical to those specified in this Part. Before either approves or accepts any such alternate, equivalent, or otherwise nonidentical procedures or equipment, the Administrator of the FAA or the Administrator of the EPA shall consult with the other in determining whether or not the action requires rulemaking under sections 231 and 232 of the Clean Air Act, as amended, consistent with the responsibilities of the Administrator of the EPA and the Secretary of Transportation under sections 231 and 232 of the Act. (42 U.S.C. 7571, 7572).

(b) U.S. airplanes. This SFAR applies to civil airplanes that are powered by aircraft gas turbine engines of the classes specified herein and that have U.S. Standard Airworthiness Certificates.

(c) Foreign airplanes. Pursuant to the definition of "aircraft" in 40 CFR 87.1(a), this SFAR applies to civil airplanes that are powered by aircraft gas turbine engines of the classes specified herein and that have foreign airworthiness certificates that are equivalent to U.S. Standard Airworthiness Certificates. This includes only those foreign civil airplanes that, if registered in the United States, would be required by applicable Federal Aviation Regulations to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane.

Pursuant to 40 CFR 87.3, this SFAR does not apply where inconsistent with an obligation assumed by the United States to a foreign country in a treaty, convention, or agreement.

Sec. 3 Relation to 40 CFR Part 87

(a) Reference in this regulation to 40 CFR Part 87 refers to Title 40 of the Code of Federal Regulations, Chapter I—Environmental Protection Agency, Part 87, Control of Air Pollution from Aircraft and Aircraft Engines (40 CFR Part 87), originally issued on July 6, 1973, and published in the Federal Register (38 FR 19088) on July 17, 1973, as revised effective January 31, 1983 (47 FR 58462), as amended effective January 20, 1983 (48 FR 2716).

(b) This SFAR contains regulations to ensure compliance with certain standards in Environmental Protection Agency (EPA), 40 CFR Part 87. If EPA takes any action, including the issuance of an exemption or issuance of a revised or alternate procedure, test method, or other regulation, the effect of which is to relax, or delay the effective date of any provision of 40 CFR Part 87 that is made applicable to an aircraft under this SFAR, the new relaxed EPA requirement, upon its effective date, is incorporated into this SFAR and supersedes the provisions of this SFAR that are based on the provisions of 40 CFR Part 87 that were relaxed by such action.

(c) Unless otherwise stated, all terminology and abbreviations in this SFAR that are defined in 40 CFR Part 87 have the meaning specified in that Part, and]

[all terms in 40 CFR Part 87 that are not defined in that Part but that are used in this SFAR have the meaning given them in the Clean Air Act, as amended by 42 USC § 7401.

(d) All interpretations of 40 CFR Part 87 that are rendered by EPA also apply to this SFAR.

(e) Consistent with subsection (c) of this section, the following definitions apply:

(1) "Administrator of the FAA" means the Administrator of the Federal Aviation Administration or any other officer or employee of the Federal Aviation Administration to whom the authority involved may be delegated.

(2) "Administrator of the EPA" means the Administrator of the Environmental Protection Agency and any other officer or employee of the Environmental Protection Agency to whom the authority involved may be delegated.

Sec. 5 Additional EPA approvals and procedures

(a) If EPA, under 40 CFR 87.3(a) approves or accepts any testing and sampling procedures or methods, analytical techniques, and related equipment not identical to those specified in EPA Part 87, this SFAR requires a showing that such alternate, equivalent, or otherwise nonidentical procedures have been complied with, and that such alternate equipment was used to show compliance, unless the applicant elects to comply fully with 40 CFR Part 87.

(b) If the Administrator of the EPA after consultation with the Administrator of the FAA, prescribes special test procedures for any aircraft or aircraft engine that is not susceptible to satisfactory testing by the procedures in 40 CFR Part 87, this SFAR requires a showing that those special test procedures have been complied with.

(c) Wherever 40 CFR Part 87 requires agreement, acceptance, or approval by the Administrator of EPA, this SFAR requires a showing that such agreement or approval has been obtained.

Sec. 7 Relation to State and local regulations

(a) Pursuant to 42 U.S.C. § 7573, no state or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless that standard is identical to a standard made applicable to the aircraft by the terms of this SFAR.

(b) If EPA, by regulation or exemption, relaxes a provision of 40 CFR Part 87, no state or political subdivision thereof may adopt or attempt to enforce the terms of this SFAR that are superseded by the relaxed requirement.

(c) Consistent with § 87.6 of 40 CFR Part 87, if the Administrator of the FAA determines that any emission control regulation cannot be safely applied to an aircraft, that provision may not be adopted or enforced against that aircraft by a state or political subdivision thereof, even if it is in this SFAR.

(d) If any provision of this SFAR is rendered inapplicable to a foreign aircraft as provided in 40 CFR 87.3(c) and section 1(b) of this SFAR, that]

[provision may not be adopted or enforced against that foreign aircraft by a state or political subdivision thereof.

Sec. 9 Petitions for rulemaking and exemption

(a) Notwithstanding Part 11 of the Federal Aviation Regulations (14 CFR Part 11), all petitions for rulemaking involving either the substance of an emission standard prescribed by EPA that is incorporated in this SFAR, or the compliance date for such standard or procedure, must be submitted to EPA. Information copies of such petitions are invited by the FAA.

(b) Petitions for rulemaking or exemption involving provisions of this SFAR that do not affect the substance or the compliance date of an emission standard or test procedure that is prescribed by EPA, and petitions for exemptions under the provisions for which the EPA has specifically granted exemption authority to the Administrator of the FAA in 40 CFR 87.7(a) (4), (b), (c), and (d), are subject to Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

(c) Any engine for which a petition for exemption has been granted pursuant to subsection (b) of this section must be reported to the FAA by serial number and type certificate number on or before the last day of the month following the date of manufacture as defined in section 12 of this SFAR.

(d) Notwithstanding any other requirement of 14 CFR § 45.13, an aircraft engine specifically exempted from the applicable requirements of this SFAR pursuant to subsection (b) of this section must have the designator EXEMPT, or an equivalent designator approved by the Administrator of the FAA, inscribed as part of the identification data of the engine.

(e) Exemptions granted pursuant to any provision of 40 CFR 87 or subsection (b) of this section are not transferrable to any other engine.

(f) Exemptions requested pursuant to the provisions of 40 CFR § 87.7(a) (2) must comply with the procedural requirements set forth in 14 CFR § 21.199.

Sec. 10 Incorporation by reference

(a) General. This SFAR prescribes certain standards and procedures which are not set forth in full text in the rule. On November 22, 1983, those standards and procedures were approved by the Office of the Federal Register for incorporation by reference pursuant to 5 U.S.C. 552(a) and 1 CFR Part 51.

(b) Changes to incorporated matter. Incorporated matter which is subject to subsequent change is incorporated by reference according to the specific reference and to the identification statement. Adoption of any subsequent change in incorporated matter that impacts compliance with standards and procedures is made under 14 CFR Part 11 and 1 CFR Part 51.

(c) Identification statement. The complete title or description which identifies each published matter incorporated by reference in this SFAR is as follows:

(1) ICAO Annex 16—Environmental Protection, Volume II—Aircraft Engine Emissions, Appendices 2 through 6 dated 18 February 1982. This document can be obtained from the International Civil Aviation Organization, P.O. Box 400, Succursale: Place de L'Aviation Internationale, 1000 Sherbrooke Street West, Montreal, Quebec, Canada H3A 2R2 at $3.00 per copy.

(d) Availability for inspection. A copy of each publication incorporated by reference in this SFAR is available for public inspection at the following locations:]

[(1) FAA Office of the Chief Counsel, Rules Docket, Room 916, Federal Aviation Administration Headquarters Building, 800 Independence Avenue, S.W., Washington, D.C. 20591

(2) Department of Transportation, Branch Library, Room 930, Federal Aviation Administration Headquarters Building, 800 Independence Avenue, S.W., Washington, D.C. 20591

(3) The respective offices of the Federal Aviation Administration as follows:

(i) New England Regional Office, 12 New England Executive Park, Burlington, Massachusetts 01803.

(ii) New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

(iii) Atlanta Aircraft Certification Office, 1075 Innerloop Road, College Park, Georgia 30337.

(iv) Chicago Aircraft Certification Office, 230(East Devon, Des Plaines, Illinois 60018.

(v) Central Regional Office, 601 East Twelfth Street, Kansas City, Missouri 64106.

(vi) Southwest Regional Office, 4400 Blue Mound Road, Fort Worth, Texas 76101.

(vii) Denver Aircraft Certification Field Office, 10455 East 25th Avenue, Aurora, Colorado 80010.

(viii) Northwest Regional Office, 17900 Pacific Highway South, Seattle, Washington 98168.

(ix) Western Aircraft Certification Field Office, 15000 Aviation Boulevard, Hawthorne, California (Mail Address: P.O. Box 92007 Worldway Postal Center, Los Angeles, California 90009).

(x) Anchorage Aircraft Certification Field Office, 701 C. Street, Anchorage, Alaska 99513.

(xi) Honolulu Aircraft Certification Field Office, Prince Kuhio Building, 300 Ala Moana Boulevard, Room 7108, Honolulu, Hawaii (Mail Address: P.O. Box 50246, Honolulu, Hawaii 96850).

(xii) Los Angeles Aircraft Certification Office, 4334 Donald Douglas Drive, Long Beach, California 90808.

(xiii) Brussels Aircraft Certification Staff, 15 Rue de la Loi, B-1040 Brussels, Belgium.

(xiv) FAA Representative, Office of U.S. Consulate General, Avenida Presidente Wilson, 147 Rio De Janeiro, Brazil.

(4) The Office of the Federal Register, Room 8401, 1100 "L" Street, NW., Washington, D.C.

Sec. 11 Compliance with airworthiness regulations

It must be shown that the airplane meets the airworthiness regulations constituting the type certification basis of the airplane under all conditions in which compliance with this SFAR is shown.

Sec. 12 Date of manufacture

As used in this SFAR, unless 40 CFR Part 87 of the Clean Air Act, as amended, requires otherwise, the date on which an aircraft engine is]

[“manufactured” is the date on which that individual engine is originally approved by the FAA, or by a foreign country of manufacture, for installation on an aircraft. Notwithstanding any other requirements of 14 CFR § 45.13, beginning January 1, 1984, the date of manufacture (month and year) must be included as part of the identification data of engines manufactured on or after that date.

Sec. 13 Engine classes and test configuration

(a) Consistent with section 3(c) of this SFAR, the following definitions in 40 CFR 87.1 apply:

(1) “Aircraft engine” means a propulsion engine which is installed in or which is manufactured for installation in an aircraft.

(2) “Class TP” means all aircraft turboprop engines.

(3) “Class TF” means all turbofan or turbojet aircraft engines except engines of Class T3, T8, and TSS.

(4) “Class T3” means all aircraft gas turbine engines of the JT3D model family.

(5) “Class T8” means all aircraft gas turbine engines of the JT8D model family.

(6) “Class TSS” means all aircraft gas turbine engines employed for propulsion of aircraft designed to operate at supersonic flight speeds.

(7) “Commercial aircraft engine” means any aircraft engine used or intended for use by an “air carrier” (including those engaged in “intrastate air transportation”) or a “commercial operator” (including those engaged in “intrastate air transportation”) as these terms are defined in the Federal Aviation Act and the Federal Aviation Regulations.

(8) “Commercial aircraft gas turbine engine” means a turboprop, turbofan, or turbojet commercial aircraft engine.

(b) As prescribed in 40 CFR Part 87, the complete engine as configured for final acceptance testing, including all accessories that might reasonably be expected to influence emissions to the atmosphere excluding auxiliary gearbox-mounted components required to drive aircraft systems and service air bleed, must be functional for all testing under this SFAR.

Sec. 14 Compliance

(a) Compliance with the fuel venting emissions requirements of this SFAR that apply beginning on February 1, 1974, and beginning January 1, 1975, may be shown by any means of compliance, applied to the airframe of the engine, that prevents the intentional discharge of fuel from fuel nozzle manifolds after the engines are shut down. Acceptable means of compliance include the following:

(1) Incorporation of an FAA approved system that recirculates the fuel back into the fuel system.

(2) Capping or securing the pressurization and drain valve.

(3) Manually draining the fuel from a holding tank into a container.

(b) Continued compliance with the exhaust emissions requirements of this SFAR that became effective on February 1, 1974, January 1, 1975, January 1, 1978, and January 1, 1984, for engines for which the type design has been shown to meet those requirements, is demonstrated if the engine is maintained in accordance with applicable maintenance requirements for 14 CFR Chapter I.]

[methods of demonstrating compliance and all model designations previously having been found acceptable to the Administrator of the FAA shall be deemed to continue to be an acceptable demonstration of compliance with the specific standards for which they were approved.

(c) Each applicant must allow the Administrator of the FAA to make, or witness, any test necessary to determine compliance with the applicable provisions of this SFAR.

(d) An acceptable alternative to testing every engine is described in Appendix 6 to Volume II—Aircraft Engine Emissions, of ICAO Annex 16—Environmental Protection, 18 February 1982, incorporated herein by reference as indicated in Section 10. Other methods of demonstrating compliance may be approved by the Administrator of the FAA with the concurrence of the Administrator of the EPA.

Sec. 15 Type certificates

(a) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no type certificate is issued, on and after the dates specified in subparagraphs (a) (1) through (a) (5) of this section, for the airplanes specified therein, unless:

(1) For airplanes powered by engines of Class TF, Class TP, Class T3, Class T8, or Class TSS, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974, and January 1, 1975;

(2) For airplanes powered by engines of Class T8, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974;

(3) For airplanes powered by engines of Class TF that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1976;

(4) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1978; and

(5) For airplanes powered by engines of Class TP, Class TF, Class T3, Class T8, and Class TSS—each engine manufactured on or after January 1, 1984, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.

(b) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no type certificate is issued, on and after the dates specified in paragraphs (a) (2), (a) (3) and (a) (4) of this section, for an engine specified therein unless the engine complies with that subparagraph.

(c) Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of application, no type certificate is issued on or after January 1, 1984, for any Class TP, Class TF, Class T3, Class T8, or Class TSS engine unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.]

[Sec. 17 Supplemental or amended type certificates

(a) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no supplemental or amended type certificate is issued on and after the dates specified in paragraphs (a) (1) through (a) (5) of this section, for the airplanes specified therein, unless:

(1) For airplanes powered by engines of Class TF, Class TP, Class T3, Class T8, or Class TSS, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974, and January 1, 1975;

(2) For airplanes powered by engines of Class T8, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974;

(3) For airplanes powered by engines of Class TF that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1976;

(4) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1978; and

(5) For airplanes powered by engines of Class TP, Class TF, Class T3, Class T8, and Class TSS—each engine manufactured on or after January 1, 1984, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.

(b) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no supplemental or amended type certificate is issued, on or after the dates specified in paragraphs (a) (2), (a) (3), and (a) (4) of this section, for an engine specified therein, unless the engine complies with that paragraph.

(c) Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of application, no supplemental or amended type certificate is issued on or after January 1, 1984, for any Class TP, Class TF, Class T3, Class T8, or Class TSS engine unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.

Sec. 19 Engine approvals

(a) On and after the dates specified in this paragraph, and notwithstanding Part 21 of the Federal Aviation Regulations, no original FAA approval for installation of an engine on aircraft covered by this SFAR (including FAA acceptance of an equivalent original approval issued on or before January 1, 1978, by a foreign country of manufacture) is made by the FAA:

(1) For an engine of Class T8, unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974;

(2) For an engine of Class TF that has a rated power of 29,000 pounds thrust or greater, unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1976;]

[(3) For an engine of Class T3, unless each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1978; and

(4) For engines of Class TP, Class TF, Class T3, Class T8, or Class TSS, unless each engine manufactured on or after January 1, 1984, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.

Sec. 20 Identification Data and Recording Requirements

(a) On or after January 1, 1984, notwithstanding 14 CFR Part 45, no original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent original approval issued on or after January 1, 1984, by a foreign country of manufacture) is made by the FAA, for an engine covered by this SFAR unless that engine has secured to it an identification plate displaying the date of manufacture and a designation, approved by the Administrator of the FAA, that indicates compliance with applicable provisions of 40 CFR Part 87. Approved indicators include COMPLY, EXEMPT, and NON-US as appropriate.

(b) On or after January 1, 1984, notwithstanding 14 CFR Part 45, no person may secure an identification plate to any airplane engine covered by this SFAR unless that engine complies with the applicable provisions of this SFAR.

(c) On or after January 1, 1984, notwithstanding any other requirement of 14 CFR Part 43, for any engine granted an exemption pursuant to any applicable provision of 40 CFR § 87.7(a) (1), (a) (4), (b), (c), or (d), an indication of the type of exemption and the reason for the grant must be noted in the permanent powerplant record, that accompanies the engine, at the time of manufacture of the engine.

(d) On or after January 1, 1984, notwithstanding any other requirement of 14 CFR Part 43, for any engine with a rated thrust in excess of 26.7 kilonewtons which does not comply with the hydrocarbon emissions standard of 40 CFR Part 87, the statement "May not be used as a commercial aircraft engine" must be noted in the permanent powerplant record, that accompanies the engine, at the time of manufacture of the engine.

(e) On or after January 1, 1984, notwithstanding any other requirement of 14 CFR Part 43, for any aircraft assembled with an engine that has been granted an exemption pursuant to 40 CFR § 87.7(a) (1), the notation "the aircraft may not be operated within the United States", or an equivalent notation approved by the Administrator of the FAA, must be inserted in the aircraft logbook, or alternate equivalent document, at the time of installation of the engine.

Sec. 21 Standard airworthiness certificates

Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no standard airworthiness certificate is issued, on and after the dates specified in paragraphs (a) through (e) of this section, for the airplanes specified therein, unless:

(a) For airplanes powered by engines of Class TP, Class TF, Class T3, Class T8, or Class TSS the airframe or engine complies with the fuel venting emissions requirement and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974, and January 1, 1975;]

[(b) For airplanes powered by engines of Class T8, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974;

(c) For airplanes powered by engines of Class TF that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1976;

(d) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1978; and

(e) For airplanes powered by engines of Class TP, Class TF, Class T3, Class T8, and Class TSS—each engine manufactured on or after January 1, 1984, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.

Sec. 25 Operation

On and after the dates specified in paragraphs (a) through (e) of this section, no person may, within the United States, operate a airplane specified in those paragraphs unless:

(a) For airplanes powered by engines of Class TP, Class TF, Class T3, Class T8, or Class TSS, the airframe or the engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974, and January 1, 1975;

(b) For airplanes powered by engines of Class T8, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on February 1, 1974;

(c) For airplanes powered by engines of Class TF that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1976;

(d) For airplanes powered by engines of Class T3, each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that became effective on January 1, 1978; and

(e) For airplanes powered by engines of Class TP, Class TF, Class T3, Class T8, and Class TSS—each engine manufactured on or after January 1, 1984, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1984.]

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PART 11

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Introductory Note

Part 11 is codified under Subchapter B, Procedural Rules, of Title 14 of the CODE OF FEDERAL REGULATIONS.

This FAA publication of the basic Part 11, effective November 10, 1962, incorporates Amendments 11–1 through 11–12 and any changes required by the Department of Transportation transition amendment.

Part 11—General Rule-Making Procedures

Contents

Section		*Page*
Preambles		P-1
	Subpart A—General	
11.1	Applicability	1
11.11	Docket	1
11.13	[Reserved]	1
11.15	Emergency exemptions	1
	Subpart B—Rules Other Than Airspace Assignment and Use	
11.21	Scope	2
11.23	Initiating rule-making procedures	2
11.25	Petitions for rule making or exemptions	2
11.27	Action on petitions for rule making or exemptions	3
[11.28	Action on special conditions]	4
11.29	Notice of proposed rule making	4
11.31	Participation of interested persons in rule-making procedures	5
11.33	Additional rule-making procedures	5
11.35	Participation by Civil Aeronautics Board in rule-making proceedings	5
11.37	Requests for informal appearances	5
	Subpart C—Processing of Rules Other Than Airworthiness Directives and Airspace Assignment and Use	
11.41	Scope	6
11.43	Processing of petitions for rule making or exemption from parts of this chapter	6
11.45	Issue of notice of proposed rule making	6
11.47	Proceeding after notice of proposed rule making	6
11.49	Adoption of final rules	6
11.51	Denial of petition for rule making	7
11.53	Grant or denial of exemption	7
11.55	Reconsideration of a denial or grant of exemption	7
	Subpart D—Rules and Procedures for Airspace Assignment and Use	
11.61	Scope	7
11.63	Filing of proposals	8
11.65	Issue of notice of proposed rule making	8
11.67	Hearings	9
11.69	Adoption of rules or orders	9
11.71	Exemptions	9
11.73	Petitions for rehearing or reconsideration of rules or orders	10
11.75	Petitions for revoking or modifying rules or orders	10

Section *Page*

Subpart E—Processing of Airworthiness Directives

11.81 Scope ---- 10
11.83 Processing of petitions for rule making or exemption ---- 10
11.85 Issue of notice of proposed rule making ---- 10
11.87 Proceedings after notice of proposed rule making ---- 10-1
11.89 Adoption of final rules ---- 10-1
11.91 Grant or denial of exemption ---- 10-1
11.93 Petitions for reconsideration of rules ---- 10-1

Special Federal Aviation Regulation 27—Compliance With Aircraft Emission Standards Issued by Environmental Protection Agency (*Preamble*) ---- 11

SFAR 27-1 (*Preamble*) ---- 15
SFAR 27-2 (*Preamble*) ---- 17
SFAR 27-3 (*Preamble*) ---- 19
SFAR 27 (*Rule*) ---- 21

Adoption of Subchapter B

Adopted: September 25, 1962 **Effective: November 10, 1962**

This amendment adds Subchapter B "Procedural Rules" [New] to Chapter I of Title 14 of the Code of Federal Regulations. The amendment is a part of the program of the Federal Aviation Agency to recodify its regulatory material into a new series of regulations called the "Federal Aviation Regulations" to replace the present "Civil Air Regulations" and "Regulations of the Administrator."

During the life of the recodification project, Chapter I of Title 14 may contain more than one Part bearing the same number. To differentiate between the two, the recodified Parts, such as the ones in this subchapter, will be labeled "[New]". The label will of course be dropped at the completion of the project as all of the regulations will be new.

Subchapter B [New] was published as a notice of proposed rule making in the Federal Register on June 14, 1962 (27 F.R. 5686) and as Draft Release 62-27.

A part of the comments received recommended specific substantive changes to the regulations. Although some of these recommendations might, upon further study, appear to be meritorious, they cannot be adopted as a part of the recodification program. The purpose of the program is simply to streamline and clarify present regulatory language and to delete obsolete or redundant provisions. To attempt substantive changes in the recodification of these regulations (other than minor, relaxatory ones that are completely noncontroversial) would delay the project and would be contrary to the ground rules specified for it in the Federal Register on November 15, 1961 (26 F.R. 10698) and Draft Release 62-27. However, all comments of this nature will be preserved and considered in any later substantive revision of the affected Parts.

Draft Release 62-27 contained a notice of the revision of the procedural rules of the Federal Aviation Agency. The preamble to the release stated that the certification procedural rules in Part 406 of the Regulations of the Administrator were being considered for transfer to the Parts to which they specifically applied, insofar as they did not duplicate provisions already in those Parts. Comment was particularly invited as to whether this change would be a convenience to the user. No adverse comment was received. Therefore Part 13 [New], as proposed in the draft release (based on present Part 406), has been deleted from the final rule. Those provisions of Part 406 relating to medical certification procedures (§§ 406.12 and 406.31) have been transferred to and included in Part 67 [New]. Those provisions of Part 406 relating to Airman Certificates (§ 406.13), and Air Agency Certificates (§ 406.16) are deleted as unnecessary and as covered in pertinent part by Subchapter D "Airmen" [New]. The remaining provisions of Part 406, relating to Aircraft Certificates, Air Carrier Certificates and Air Navigation Certificates will be considered for inclusion in future subchapters of the recodification, as applicable.

As a result of the deletion of the proposed Part 13 (based on present Part 406) the proposed Part 15 (based on present Part 408) has been renumbered in the final rule as Part 13 "Enforcement Procedures" [New].

Section 11.25 has been revised and expanded to meet certain problems the Agency has encountered in processing petitions for rule making and exemptions. Many petitions do not contain enough information to allow a determination to be made of the matter. Others fail to specify clearly the regulations involved or the nature and extent of the requested action. As a result, the Agency must get additional information from its field personnel, the petitioner, or other sources, thereby unnecessarily delaying the handling of the petition. A number of petitions for exemption have been filed so close to the requested effective date of the exemption as to require priority handling, with attendant disruption of normal Agency work schedules.

Accordingly, the revised § 11.25 specifies in greater detail the information that must be included in petitions. In addition, except for good cause shown in the petition, it requires petitions for exemption to be filed at least 60 days before the requested effective date of the exemption to allow time for their orderly processing. As this revision is concerned only with agency procedure, compliance with the notice and public procedure provisions of the Administrative Procedure Act is unnecessary and it may be incorporated into the recodified Subchapter B [New].

Other minor changes of a technical clarifying nature or relaxatory nature have been made. They are not substantive and do not impose any burden on regulated persons.

Of the comments received on Draft Release 62–27, several suggested changes in style, format, or technical wording. These comments have been carefully considered and, where consistent with the style, format, and terminology of the recodification project, were adopted.

The definitions, abbreviations, and rules of construction contained in Part 1 [New] of the Federal Aviation Regulations apply to the new Subchapter B.

Interested persons have been afforded an opportunity to participate in the making of this regulation, and due consideration has been given to all relevant matter presented. The Agency appreciates the cooperative spirit in which the public's comments were submitted.

In consideration of the foregoing, effective November 10, 1962, Chapter III of Title 14 of the Code of Federal Regulations is amended by deleting Parts 405, 408, and 409 and sections 406.12, 406.13, 406.16, and 406.31, and Chapter I of Title 14 of the Code of Federal Regulations is amended by adding Subchapter B [New]* reading as hereinafter set forth.

This amendment is made under the authority of sections 303(d), 313(a), 501 through 506, 601 through 608, and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d), 1354(a), 1401 through 1405, 1421 through 1428, and 1481).

*Includes Part 11—General Rule-Making Procedures [New] and Part 13—Enforcement Procedures [New].

Amendment 11–1

General Rule-Making Procedures [New]

Adopted: March 19, 1963 **Effective: April 23, 1963**

The purpose of these amendments is to make appropriate provision for petitions for extension of the time for written comments stated in a notice of proposed rule making (§ 11.29(b)(4)). While in the past such requests have been acted upon under §§ 11.45 and 11.65(e), neither the applicable procedural requirements nor the standards for passing on the requests have been stated in the regulation.

New paragraph (c) of § 11.29 supplies these provisions. It is the Agency policy to allow ample time for comments on rule-making proposals initially, and no change in this policy is contemplated. The new rule therefore states a policy of granting extensions of time only where requested by persons showing a substantive interest in the subject matter and good cause for the extension, and where consistent with the public interest. However, when an extension is granted it will apply to all persons desiring to submit comments and will be published in the Federal Register. Requests for extension of time must be filed before the time has expired and the mere filing of the request does not automatically extend the time. Incidental conforming amendments not involving additional substantive changes are made in §§ 11.45 and 11.65(d) and (e).

Since these amendments are procedural in nature, notice and public procedure thereon are not required and the amendments may be made effective less than 30 days after publication.

In consideration of the foregoing, effective April 23, 1963, Part 11 [New] of the Federal Aviation Regulations is amended as follows.

These amendments are made under the authority of sections 303(d), 307, 313(a) and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d), 1348, 1354(a), 1481).

Amendment adds new paragraph (c) to § 11.29; § 11.45 is revised and paragraph (d) of § 11.65 is restated to conform to the procedural requirements of § 11.29.

Amendment 11–2

Exemptions Under Emergency Conditions

Adopted: May 22, 1964 **Effective: May 29, 1964**

(Published in 29 F.R. 7091, May 29, 1964)

The purpose of this amendment is to make provision for the processing of exemptions from air safety regulations at times of emergency when communications with Federal Aviation Agency headquarters may be interrupted.

For this purpose, a new § 11.15 is being added to this Part. It authorizes the filing of exemption petitions with certain FAA field offices when, as a result of enemy attack, communications with FAA headquarters are materially impaired or altogether disrupted. The new section gives public notice of the delegated authority of the inspectors or officers in charge of these FAA field offices, at times of these emergencies, to issue exemptions upon such petitions or to deny the petitions; or to issue such exemptions on their own initiative. Exemptions so issued will be subject to review by the Director of the FAA Service in whose jurisdiction the matter falls.

Since this is a procedural regulation, notice and public procedure thereon are not required and the amendment may be made effective less than 30 days after publication.

In consideration of the foregoing, effective May 29, 1964, Part 11 [New] of the Federal Aviation Regulations is amended by adding, in Subpart A—General, a notation "§ 11.13 reserved" and a new § 11.15 to read as follows.

This amendment is made under the authority of sections 303(d), 307, 313(a), 601 to 608, 610(b) and 1001 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1348, 1354, 1421–1428, 1430, 1481).

Amendment 11–3

Assignment of Navigable Airspace

Adopted: July 13, 1964 **Effective: July 13, 1964**

(Published in 29 F.R. 9661, July 17, 1964)

This amendment to Part 11 [New] of the Federal Aviation Regulations alters the Federal Aviation Agency's General Rule-Making Procedures to authorize FAA Regional Directors to issue regulations assigning controlled airspace for terminal areas.

This action was published as a notice of proposed rule making in the Federal Register on February 14, 1964 (29 F.R. 2467). A supplemental notice and a notice extending the period for comments were published in the Federal Register on February 25, 1964, and March 17, 1964, respectively (29 F.R. 2677, 3441). Under the proposed rule, Regional Directors would have been authorized to issue regulations on restricted areas as well as on controlled airspace for terminal areas.

Five parties submitted comments on the proposal and the overall reaction was one of opposition. Some of the comments stated broad objections to the decentralization of the airspace rule-making function while others concentrated on specific situations where regional handling of airspace rules would be undesirable. A prevailing theme dealt with the need for the exercise of firm control over the national airspace program, and the importance of centralization to the achievement of this goal. Particularly in the case of the designation of special use airspace, it was pointed out that the impact of many airspace rule-making actions on the public and on the defense establishment was such as to call for top-level coordination and control. Strong objections were made to any delegation of rule-making authority which would enable Regional Directors to issue notices and rules for special use or en route purposes, or to process cases requiring coordination with the Departments of Defense and State under Executive Order 10854.

It was suggested in two comments that if the Agency did carry the proposal to a final rule, procedures be incorporated therein for the appeal or referral of cases to the Washington Headquarters whenever a controversy arose over the position taken by a Regional Director. The Department of Defense was particularly concerned that delegation of airspace authority to the field in the FAA, while DOD maintained centralized authority, would disrupt the timely exchange of information between DOD and FAA. Other comments reflected upon the history of the airspace program and contended that adoption of the proposed action would run contrary to the aims of the Federal Aviation Act of 1958 and prevent the administration of a uniform airspace program. Some comments suggested further that if any delegation of authority was to be adopted, the FAA should clearly outline the responsibilities of the Regional Directors and establish firm guidelines to prevent the promulgation of inequitable and inconsistent actions.

The FAA has studied these comments and found several of them to be meritorious. It has reviewed the proposal as it related to the designation of special use airspace and has concluded that this function should be performed by the Washington Headquarters. Restricted areas are by nature most critical because of the prohibition to flight they entail and because of their usual tie-in with national defense interests. Retention of this function in Washington will perpetuate the exercise of central control in this area and minimize the impact on procedures now followed by DOD and FAA in exchanging information on airspace matters.

The notice stated that airspace designations for en route purposes would continue to be handled by the Air Traffic Service in Washington. However, it also contained a provision which would have permitted Regional Directors to issue rules on airways and routes if they were tied in with an action on restricted areas or terminal control areas. The purpose of that provision was to ensure that the division of responsibilities between the headquarters and field offices did not require the Agency to fragmentize rule-making cases when a consolidated presentation of actions was necessary to assure intelligent participation in the rule-making process by interested persons or to avoid the separate publication of minor amendments tied in with another action. The Agency still intends to issue consolidated actions in line with this policy, but the change in the division of responsibilities adopted herein necessitates the establishment of different guidelines. Inasmuch as restricted area cases will not be handled by regional offices, it is not anticipated that it will be necessary for Regional Directors to issue any notices or rules on jet routes or jet advisory areas. Thus, the rule adopted herein prohibits Regional Directors from handling actions on Part 75 [New]. Regional Directors will, however, be authorized to include action on a Federal airway in a notice or rule relating to controlled airspace for terminal areas if the airway action is ancillary to the terminal area case and if he obtains approval from FAA Headquarters in Washington to ensure that there is consistency with national airway planning.

All airspace dockets affecting airspace outside the three-mile limit will be issued by the Washington Headquarters. All of these cases are coordinated with the State and Defense Departments under Executive Order 10854 and their handling in Washington will permit continuation of existing procedures in effecting this coordination.

The notice of proposed rule making contained a provision for the redelegation of authority by Regional Directors. Under the rule adopted herein, no redelegation of authority by a Regional Director would be permissible. With this provision, with the distribution to the field of new and revised internal directives on the processing of airspace cases, and with the limitation placed on Regional Directors as to the categories of airspace allocations they may handle, the FAA believes that proper control will be maintained over the airspace program. At the same time, Regional handling of cases on controlled airspace should accelerate the processing of a large volume of dockets. It will also permit decisions on many dockets having more of a local than national impact to be made by Agency officials most familiar with the case.

No provision appears in the rule-making action taken herein for Headquarters intervention in terminal airspace dockets creating a controversy in the field. It is the intent of this amendment to delegate complete authority to Regional Directors in matters related to airspace allocations concerning terminal areas. Section 11.73 [New], however, does provide for petitions for reconsideration to be submitted to the Administrator within 30 days after publication of the rule. This provision should provide adequate relief for parties who feel that rule-making action taken by a Regional Director is contrary to the public interest.

The notice of proposed rule making anticipated a problem in the handling of airspace overlapping two regions, and provided for the issuance of a rule in these cases by the region responsible for the larger portion of the airspace in question. Upon further consideration, the Agency has decided to refrain from establishing quantity of airspace as the determining factor as to how these actions would be handled. Responsibility over the greater portion of such airspace may be the controlling factor in some cases, but it will be left to the regional offices concerned to consider all the problems involved in the case and to jointly decide which region will issue the notice or rule.

Since these amendments are procedural in nature, they may be made effective on less than 30 days, notice.

In consideration of the foregoing, Part 11 [New] of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective immediately, as hereinafter set forth.

This amendment is made under the authority of Section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Amendment 11–4

Assignment of Navigable Airspace

Adopted: November 2, 1964 Effective: November 2, 1964

(Published in 29 F.R. 15074, November 7, 1964)

The purpose of this amendment is to bring certain references to other Parts of the Federal Aviation Regulations made in Part 11 into agreement with redesignations of certain Subparts effected in amending Part 71, and to provide for the maintenance of certain public dockets in Regional offices of the Federal Aviation Agency.

Amendment 11–3 (Regulatory Docket No. 4003) to Part 11 of the Federal Aviation Regulations was published in the Federal Register on July 17, 1964 (29 F.R. 9661), delegating to Regional Directors limited rule-making authority in the assignment of navigable airspace.

On July 7, 1964, a Notice of Rule Making was published in the Federal Register (29 F.R. 8471), amending Part 71 of the Federal Aviation Regulations effective September 17, 1964, and establishing a two-layer airspace structure within the 48 contiguous states and the District of Columbia. As a consequence of this amendment certain Subparts of Part 71 were revoked or redesignated.

Accordingly, as those references to Part 71 in Amendment 11–3 to Part 11 are to Subparts as previously designated, this amendment is necessary to bring those references into agreement with Subparts of Part 71 as now amended.

Additionally, as a necessary adjunct to the exercise of rule-making authority by Regional Directors, a public docket relating to each action is maintained and is available for examination by interested persons in the office of the Regional Counsel. In order to clarify the requirement for maintenance of such dockets, Section 11.11 of Subpart A is expanded to include a provision to that effect.

Since these amendments are procedural in character, and in the interest of correcting present references at the earliest possible date, notice and public procedure hereon are considered unnecessary and impracticable, and good cause exists for making this amendment effective immediately.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations is amended effective immediately, as hereinafter set forth.

This amendment is made under the authority of Section 307 of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Amendment 11–5

Updating and Clarification

Adopted: August 15, 1966 Effective: August 20, 1966

(Published in 31 F.R. 11091, August 20, 1966)

This amendment adds FAA Area Offices to the list of offices that may receive and handle emergency exemptions under § 11.15. In addition, it clarifies Part 11 by expressly stating the rule-making powers of the Associate Administrators and the applicability of § 11.25 to petitions for exemption from any FAA rules. Minor editorial changes are made to update certain references in Part 11.

Since § 11.15 was added to Part 11 in 1964, the Regions have been subdivided into Areas headed by Area Managers (Amendment 2 to the FAA Organization Statement, 31 F.R. 838) whose purpose is to manage the operating programs of the Agency. Area Offices are therefore added to the list of offices in § 11.15 where exemption petitions may be filed and handled. In addition, the reference in § 11.15 to "Flight Standards International Field Office" is updated to read "International Field Office, or FAA Representative in the Europe, Africa, and Middle East Region or in the Pacific Region".

Section 11.25 contains procedural rules that govern the filing of petitions for an "exemption from any rule issued under Title III or VI of the Federal Aviation Act of 1958". This provision is being amended to make it clear that it applies to exemptions from any Agency rules issued under the Federal Aviation Act of 1958 or other statute administered by the FAA. This amendment conforms the rule to actual Agency practice.

Under the principle (FAA Organization Statement, Part IV—Delegations, sec. 1(b)(1)) that a delegation of authority to an FAA officer is also made to any officer exercising executive direction over the delegatee with respect to the subject-matter of the delegation (unless the delegation provides expressly to the contrary), each Associate Administrator has the rule-making authority delegated in this Part to the Service Directors under his executive direction. A majority of the Services that have substantive responsibility for FAA rules (Airports Service; Air Traffic Service; Flight Standards Service; and Systems Maintenance Service) are under the executive direction of the Associate Administrator for Programs. To make this part more nearly self-contained in this respect, §§ 11.41(a) and 11.61(c) are being amended to state expressly the authority of the Associate Administrators. Since the Air Traffic Service is the only Service concerned under Subpart D, the added reference in § 11.65(c) is only to the Associate Administrator for Programs.

The Agency has always considered late filed comments in rule-making proceedings if it was possible to do so without delaying the project or incurring expense, but this policy is not currently stated in the regulation. Section 11.47(a) is therefore amended to state it.

Since these amendments are procedural in nature, do not constitute substantive rule making, and do not impose a burden on any person, notice and public procedure thereon are not required and the amendment may be made effective less than 30 days after publication.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended, effective August 20, 1966.

These amendments are issued under the authority of sections 302(f), 303(d), 313(a) and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1343(d), 1344(d), 1354(a) and 1481).

Amendment 11–6

Issue of Airworthiness Directives by Regional Directors

Adopted: October 21, 1966 **Effective: January 1, 1967**

(Published in 31 F.R. 13697, October 15, 1966)

The purpose of this amendment is to add a new Subpart E to Part 11 of the Federal Aviation Regulations to authorize the FAA Regional Directors within the 48 contiguous States to issue Airworthiness Directives. Airworthiness Directives are rules issued under Part 39 of the Federal Aviation Regulations when an unsafe condition exists in a product and that condition is likely to exist in other products of the same type design.

This action was published as a Notice of Proposed Rule Making in the Federal Register on February 18, 1966 (31 F.R. 2903).

Eighteen comments were received on the proposal and the overall reaction was one of opposition. These comments were based primarily on two points, that decentralization would lead to a lack of uniformity in the policies and procedures governing the issue of AD's and that decentralization would result in the issue of more AD's. The overall policies and procedures governing the issue of AD's will continue to be the responsibility of FAA's Washington headquarters and AD's will be issued by the regions only in accordance with these policies and procedures. Regional actions will be monitored carefully, especially in the initial stages, to assure that a lack of uniformity does not occur. In connection with its review of the comments on this

proposal, the Agency has again reviewed industry comments on the proposed decentralization of airspace rule making in 1964 (Amendment 11–3, effective July 13, 1964). Many of the same organizations expressed substantially the same objections at that time. Experience since that time has shown, however, that the airspace rule writing has been handled on a more expeditious and satisfactory basis by the regions and no unjustifiable increase in the number of airspace actions has occurred. While the airspace and airworthiness regulatory functions can be distinguished in certain respects, the Agency believes it reasonable to anticipate that similar results will accrue from the decentralization of the issue of Airworthiness Directives.

No provision appears in the rule for headquarters' participation, on a case-by-case basis, in Airworthiness Directive rule making. It is the intent of the amendment to delegate complete authority to Regional Directors in these matters. Section 11.93, however, provides that petitions for reconsideration may be submitted to the Administrator within 30 days after publication of the rule. This provision should provide adequate relief for parties who feel that rule-making action taken by a Regional Director is contrary to the public interest.

The FAA regional offices are currently responsible for the original determination that an aircraft is in safe condition for operation. Both type certificates and airworthiness certificates are issued by those offices. In addition, initial responsibility for determinining the need for, and the substantive requirements of, Airworthiness Directives are developed in the regional offics and are submitted to the Agency headquarters for processing and issuance. This practice has resulted in administrative difficulties and delays with no major compensating substantive benefits to the public or the Agency. Thus, the delegation of the final rule-making authority to the regions merely completes a substantive delegation that has been in effect for many years.

No redelegation of authority by a Regional Director will be authorized. With this consideration and with the distribution to the regions of internal directives on the processing of Airworthiness Directives, the Agency believes that proper control will be maintained over the program. At the same time, regional handling of cases should accelerate their processing and permit decisions to be made by Agency officials most familiar with the case.

The Alaskan, Pacific, and European Regions of the Agency are not staffed to handle the entire processing of Airworthiness Directives. For this reason, Airworthiness Directives arising in those regions will continue for the present to be developed in those regions, will be processed in the Agency headquarters, and will continue to be issued by the Director, Flight Standards Service.

A duplicate docket will be maintained in Agency headquarters for each regional Airworthiness Directive action.

In consideration of the foregoing, Part 11 of Chapter I of Title 14 of the Code of Federal Regulations is amended, effective January 1, 1967.

This amendment is made under the authority of sections 303(d), 313(a), and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1344, 1354, and 1421).

Unnumbered Amendment

Technical Amendments to Reflect Transition to Department of Transportation

Adopted: April 4, 1967 **Effective: April 1, 1967**

(Published in 32 F.R. 5769, April 11, 1967)

The purpose of these amendments is to make changes in the Federal Aviation Regulations that are necessary because of the taking effect of the Department of Transportation Act (49 U.S.C. 1651 et seq.) on April 1, 1967. On April 1, 1967, the Federal Aviation Agency became the Federal Aviation Administration in the Department of Transportation, and the aviation safety functions of the Civil Aeronautics Board under Titles VI and VII of the Federal Aviation Act of 1958 were transferred to the National Transportation Safety Board.

This rule-making action therefore changes the term "Federal Aviation Agency", wherever it occurs in the Federal Aviation Regulations, to "Federal Aviation Administration", and the word "Agency" when used alone to denote the Federal Aviation Agency to "FAA". For reasons of economy the editions of these regulations that are currently for sale will not be reprinted merely to make these changes. Whenever they are reprinted for other reasons, the printing changes will be made. However, the pages of Part 1 reflecting the changes in definition of the term "Administrator" and the abbreviation "FAA" will be reprinted as soon as possible.

The changes made in the Parts containing references to the Civil Aeronautics Board that are affected by the transfer of functions to the National Transportation Safety Board are self-explanatory. Pages containing these changes will also be reprinted as soon as possible.

Notice and public procedure thereon are not required since these amendments merely reflect changes of law, and they may therefore be made effective immediately.

In consideration of the foregoing, the Federal Aviation Regulations (14 CFR Chapter I) are amended, effective April 1, 1967.

These amendments are made under the authority of sections 3(e), 6(c) and 9(f) of the Department of Transportation Act (15 U.S.C. 1652(e), 1655(c), 1657(f)) and section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)).

Amendment 11–7

Cross Reference Corrections in FAR Parts 61, 65, 141, and 147

Adopted: April 4, 1967 **Effective: April 10, 1967**

(Published in 32 F.R. 5770, April 11, 1967)

These amendments update certain cross references in the Federal Aviation Regulations and make other miscellaneous corrections.

At the time of the recodification, it was necessary to include in the Federal Aviation Regulations cross references to the Civil Air Regulations or Special Civil Air Regulations where the referenced provision had not yet been recodified. These amendments update those cross references not previously updated. No substantive change is involved in these amendments. In some instances, the cross references as updated herein have been anticipated in compilations and reprints of the respective Parts of the regulations.

In addition, the term "Federal Air Surgeon" is substituted for the term "Civil Air Surgeon" in § 11.55 to correctly state the title of that official.

Since this amendment does not involve any substantive change and does not impose a burden on any person, notice and public procedure thereon are unnecessary, and the amendment may be made effective immediately.

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In consideration of the foregoing, Chapter I of Title 14 is amended, effective April 10, 1967.

These amendments are made under the authority of section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)).

Amendment 11–8

Authority of Directors of Aeronautical Center and National Aviation Facilities Experimental Center

Adopted: April 18, 1967 **Effective: April 25, 1967**

(Published in 32 F.R. 6390, April 25, 1967)

The purpose of this amendment is to clarify Subpart C of FAR Part 11 to the effect that the terms "Office or Service" include the Aeronautical Center and the National Aviation Facilities Experimental Center, either of which has the responsibility for developing the substance of certain parts of the Federal Aviation Regulations. Since this amendment is procedural and does not impose a burden on any person, notice and public procedure thereon are not required and the amendment may be made effective immediately,

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective April 25, 1967.

This action is taken under the authority of sections 303(d), 313(a) and 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1344(d), 1354(a), 1481).

Amendment 11–9

Disposition of Certain Repetitious Petitions, and Deletion of Provision on Placing Certain Medical Information in Docket

Adopted: January 19, 1968 **Effective: February 25, 1968**

(Published in 33 F.R. 971, January 26, 1968)

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to (1) authorize the Administrator to provide time periods during which repetitious petitions for medical exemptions will not be considered; and (2) remove the provision for placing in the official rule-making docket additional medical information or further medical examination obtained from a petitioner for medical exemption at the request of the advisory panel of medical experts.

Until now, a person denied a medical exemption could file and obtain consideration of another petition at any time. This has been done promptly in a number of instances, followed by repeated denials because of the same disqualifying medical condition.

Even under the best management or therapy the human organism may well need time to show significant progress toward recovery after experiencing a disqualifying medical condition under Part 67, and this time varies from one individual to another and from one condition to another. In the area of medical exemptions it is appropriate to provide that, as applied on an individual basis, a new petition may not be considered until after the lapse of a given period of time appropriate to the disqualifying condition. Before the expiration of such a time, medical considerations make it impossible to sensibly reevaluate the effects upon safety of a given medical deficiency (such as an established medical history or clinical diagnosis of myocardial infarction, chronic alcoholism or drug addiction) that has remained either active or in a state of remission. To attempt reevaluation before that time has elapsed would elicit no meaningful information that could reasonably be expected to alter a previously made decision. In other words, given

the same basic fact situation, reconsidering a medical case within a fixed period of time may be a purely repetitious review that is time consuming, imposes an unreasonable workload and financial burden upon the FAA, and subjects the petitioner himself to false hopes and eventual disappointment.

Since exemption from standard medical requirements is a discretionary function under the Federal Aviation Act of 1958, a proper balancing of the interest of the applicant against cost-benefit considerations in Government operations requires dismissal of exemption petitions during that minimum period.

These amendments therefore provide that the advisory panel of medical specialists may, when recommending the denial of a petition for exemption, also advise the Administrator in an appropriate case that, as a matter of individual medical consideration, an exemption may not be entertained before a certain minimum period of time has elapsed. On this advice the Adinmistrator may determine that a second or any subsequent petition for exemption from the requirements of Part 67 may not be considered before a predetermined period of time elapses.

These amendments also delete from § 11.55 the provision that the Federal Air Surgeon sends to be placed in the official rule-making docket a copy of additional medical information or further medical examination obtained from the petitioner at the panel's request. The provision is deleted because medical information relating to an individual is, for the most part, properly withheld from public disclosure.

Since these amendments are procedural in nature, notice and public procedure thereon are not required.

These amendments are issued under the authority of sections 313(a) and 601(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421).

In consideration of the foregoing, § 11.55 of the Federal Aviation Regulations is amended as follows, effective February 25, 1968.

Amendment 11–10

Emergency Exemptions

Adopted: November 22, 1968 **Effective: November 22, 1968**

(Published in 33 F.R. 17850, November 30, 1968)

The purpose of this amendment is to make provision for the processing of petitions for exemption from Airworthiness Directives during times of emergency when communications with FAA Headquarters may be interrupted.

Under § 11.91 the Regional Director has the authority to grant or deny petitions for exemption from Airworthiness Directives, subject to the approval of the General Counsel with respect to form and legality. However, no provision is made for processing of exemptions from Airworthiness Directives during time of emergency when communication with the Regional Director and the General Counsel may be interrupted.

For this purpose § 11.91 is being added to the regulations in § 11.15 from which exemptions may be processed by FAA field personnel during emergency conditions without following the usual procedural requirements.

Since this amendment is procedural in nature, does not constitute substantive rulemaking, and does not impose a burden on any person, notice and public procedure thereon are not required and the amendment may be made effective less than 30 days after publication.

In consideration of the foregoing, Part 11 (§ 11.15) of the Federal Aviation Regulations is amended effective immediately.

This amendment is made under the authority of sections 303(d), 307, 313(a), 601 to 608, 610(b) and 1001 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1348, 1354, 1421–1428, 1430, 1481), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Amendment 11–11

Grant or Denial of Medical Exemptions

Adopted: February 19, 1971 Effective: March 29, 1971

(Published in 36 F.R. 3462, February 25, 1971)

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to state the general course and method by which petitions for exemption from provisions of Part 67 (Medical Standards and Certification) are granted or denied. This function will now be performed by the Federal Air Surgeon, with the assistance of consultant medical specialists where appropriate, and the services of an advisory panel of medical specialists as previously provided for in § 11.55, will no longer be required.

Under the procedural rules of § 11.55, each petition for an exemption from any provision of Part 67 has been referred to a panel of medical specialists for its recommendation. The panel's function has been to examine the petitioner's medical condition by thorough review of all pertinent medical documents and to advise the Administrator whether the specific nature of the applicant's medical defect that made him unable to meet the standards of Part 67 was such that he could be exempted from those standards without endangering public safety during the period the medical exemption would be in effect. Based on the public interest and in the light of the specific situation involved, the Administrator has granted or denied the petition after receiving the panel's recommendation.

The Federal Air Surgeon has not had explicit authority to recommend to the Administrator the disposition of petitions for exemption or to actually dispose of them himself. However, under § 67.19 he may, in certain cases, authorize special medical flight or practical tests, or special medical evaluations, to determine whether the applicant can perform his duties under his airman certificate in a manner that will not endanger public safety. Upon the required showing, the Federal Air Surgeon may issue specially to the applicant a medical certificate of the appropriate class, with any operational limitation or limit on the duration thereof that the Federal Air Surgeon determines is needed for safety. Thus, the Federal Air Surgeon has in fact had a substantial area of authority in dealing with applicants who do not meet the specific standards of Part 67.

Under the system previously in effect, a petition for exemption referred to the panel may not have been considered for up to two months (the frequency of panel meetings), and the per-case cost of considering matters has been substantial. By delegating to the Federal Air Surgeon the authority to grant or deny petitions for exemption from any section of Part 67, the disposition of petitions in many cases will be accelerated and some savings in the overall cost of review can be made. The Federal Air Surgeon will consider all petitions and grant those where he finds an exemption would be in the public interest and deny those where he does not so find. The Federal Air Surgeon will obtain the opinions of consultant medical specialists in cases where this appears to be appropriate in attaining the continuance of full objectivity and expertise in the review of petitions for exemption.

The delegation of authority to the Federal Air Surgeon is consistent with delegations made to the heads of the other Services or Offices. Similarly, if the Federal Air Surgeon finds that a grant or denial involves a policy determination that should be made by the Administrator, he will refer the petition and any recommendations, including those of the General Counsel, to the Administrator for final action.

These amendments therefore revoke § 11.55 (Exemptions from Part 67) and make appropriate changes in §§ 11.15 and 11.53 to reflect the authority of the Federal Air Surgeon to grant or deny petitions for medical exemptions.

Since these amendments are procedural in nature, notice and public procedure thereon are not required.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations is amended, effective March 29, 1971.

(Sections 313(a) and 601(c) of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421(c). Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c)).

Amendment 11–12

Grant or Denial of Exemptions from Airport Certification and Operation Rules

Adopted: September 12, 1972 Effective: September 20, 1972

(Published in 37 F.R. 19354, September 20, 1972)

The purpose of these amendments to Part 11 of the Federal Aviation Regulations is to (1) state the general course and method by which action is taken on petitions for exemption from provisions of Part 139—Certification and Operations: Land Airports Serving CAB—Certificated Scheduled Air Carriers Operating Large Aircraft (Other Than Helicopters), including petitions filed under § 139.19 for exemptions from safety equipment requirements, on which Regional Directors already are authorized to act; and (2) provide for public dockets in the offices of Regional Counsel relating to rule-making actions taken by Regional Directors on all petitions for exemption filed under Part 139.

Section 139.19 specifically provides for petitions for exemption from the safety equipment requirements of § 139.49 (Airport firefighting and rescue equipment and service), § 139.53 (Traffic and wind direction indicators), and § 139.65 (Public protection), and the grounds that compliance would be contrary to the public interest. This provision was responsive to the 1971 amendment to section 612(b) of the Federal Aviation Act of 1958 (Public Law 92–174, approved November 27, 1971) that specifically provides that the terms, conditions, and limitations on each airport operating certificate that are "reasonably necessary to assure safety in air transportation" shall include those relating to adequate safety equipment "unless the Administrator determines that it would be contrary to the public interest." While petitions under that section are to be submitted and processed under Part 11, they are to be filed with FAA airport field offices. It has been provided that thereupon they are to be either granted or denied by the appropriate Regional Director, in view of the fact that the certification function itself is to be performed in the field. As stated in the preamble to Part 139, relief by exemption may be applied for under Part 11 at any time in situations other than those covered by § 139.19. In the absence of these amendments, petitions other than § 139.19 petitions would be processed by the Director, Airports Service, at the FAA Headquarters in Washington, D.C.

Upon further consideration, it has been determined that it is desirable to have all exemption petitions under Part 139 processed at one location and thus avoid an illogical diversity of authority as to the exemptions filed under that Part. Accordingly, it is considered appropriate to have the Regional Directors grant or deny all exemptions under Part 139. It is anticipated that, comparatively, the workload on exemptions filed under Part 139 other than under § 139.19 will be fairly light. As a consequence of these amendments, therefore, all petitions for exemption filed under Part 139 will be referred to Regional Directors for action. These amendments also provide specifically for the establishment of public dockets on these actions in the offices of Regional Counsel.

Since these amendments are procedural in nature and do not impose a burden upon any person, notice and public procedure thereon is not required, and they may be made effective in less than 30 days after publication.

In consideration of the foregoing, Part 11 of the Federal Aviation Regulations is amended, effective September 20, 1972.

(Sections 303(d), 313(a), and 1001 of the Federal Aviation Act of 1958; 49 U.S.C. 1344(d), 1354(a), 1481. Section 6(c) of the Department of Transportation Act; 49 U.S.C. 1655(c). Section 1.47(a) of the Regulations of the Office of the Secretary of Transportation; 49 CFR 1.47(a)).

Amendment 11–13

Processing of Petitions for Medical Exemptions

Adopted: March 8, 1976 **Effective: March 18, 1976**

(Published in 41 F.R. 11271, March 18, 1976)

The purpose of this amendment to Part 11 of the Federal Aviation Regulations is to amend § 11.43 to reflect the authority delegated to the Federal Air Suregon, Office of Aviation Medicine, for the processing of petitions for exemption from Part 67.

By Amendment 11–11 to Part 11, effective March 29, 1971, the Federal Air Surgeon was delegated authority to grant and deny petitions for exemption from the provisions of Part 67. Appropriate changes were made to §§ 11.15 and 11.53 to reflect that delegation. However, a related change to § 11.43 was inadvertently omitted. Accordingly, § 11.43 is amended consistent with Amendment 11–11 to make the procedures specified in that section applicable to petitions for exemption from Part 67.

Since this amendment is procedural in nature, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

This amendment is made under the authority of §§ 313(a) and 601(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421(c)), and § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 11.43 of the Federal Aviation Regulations is amended effective March 18, 1976.

Amendment 11–14

Procedural Requirements for Petitions for Exemptions

Adopted: June 30, 1977 **Effective: September 6, 1977**

(Published in 42 FR 34864, July 7, 1977)

SUMMARY: This amendment changes the lead-time for filing certain petitions for exemption from the present 60 days prior to the desired effective date to 120 days prior to that date. The intended effect is to expedite all regulatory actions, including exemptions, by providing for the orderly inclusion of exemption requests into the FAA's regulatory workload. This change is needed because of the increase in exemption petitions in recent years.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Beitel, Air Carrier and General Operating Branch, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–3080.

SUPPLEMENTARY INFORMATION:

HISTORY

This amendment is based on a Notice of Proposed Rule Making (Notice No. 75–24) published in the Federal Register on June 3, 1975 (40 FR 23897). That Notice invited comments by all persons interested in the making of the proposed rule. All interested persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented. Thirty-two commentators responded to Notice 75–24. Except for editorial revision, and as specifically discussed herein, this amendment and the reasons therefor are the same as those in Notice 75-24.

DISCUSSION OF COMMENTS

As stated in Notice 75–24, the purpose of the proposal is to allow orderly integration of exemption requests into the FAA regulatory workload and thereby reduce the disruptive effect of short notice exemption requests. Several commentators asserted that in-

stead of amending Part 11 to increase the lead-time for filing exemption requests, the FAA should reduce the need for exemptions by improving the regulations and reviewing them more often. The FAA is committed to improving and maintaining the regulations to the state-of-the-art. The Airworthiness Review and Operations Review programs were established to provide a complete review and updating of the regulations covered by those programs. These review programs are undertakings of substantial magnitude which involve participation by numerous persons, including industry groups, foreign governments, and users of the aviation system. While the FAA anticipates that these review programs will eliminate the need for many of the current requests for exemptions, it is not believed that all exemptions will or should be eliminated. With respect to comments concerning frequency of review of the regulations, as noted above the FAA is committed to maintaining the regulations to the state-of-the-art. Future regulatory reviews should be conducted with sufficient regularity to achieve that goal.

A number of commentators asserted that the 180 day period would be too long. Several commentators expressed support for an increase in the 60 day period to either 90 or 120 days. The FAA has carefully considered the various comments relating to the length of the proposed 180 day period and has concluded that a modification is appropriate. With due regard for the needs of petitioners for exemptions on the one hand, and on the other hand, the need for the additional lead-time to allow for the orderly integration of exemption requests into the FAA's regulatory workload and to better enable the FAA to determine whether or not general rule making is appropriate, the FAA believes that a 120 day period should be adopted. The proposal has been revised accordingly. However, the FAA will periodically assess the impact of the 120 day lead-time on the processing of its regulations. In this connection, it was noted in the preamble to Notice 75–24 that the increase in exemption petitions experienced by the FAA absorbed more and more of the resources expended on the safety regulatory program. If the FAA regulatory review programs, including the current Airworthiness and Operations Reviews, significantly reduce the number of petitions for exemption, it may be possible to reduce the lead-time to 90 days, or even back to 60 days.

It should be noted that many petitions for exemption do not contain the supporting information specified in § 11.25. Failure to provide required information in a timely manner results in additional communication with the petitioner to secure the information needed by the FAA to consider the petition and can delay final action on the petition. The FAA expects all petitioners to support their petitions for exemption with all information required by § 11.25. The increase in lead-time to 120 days and compliance by petitioners for exemptions with the information requirements of § 11.25 will assist the FAA in scheduling exemptions and other rule-making actions with the result that all regulatory actions should be accelerated.

Several of the commentators were concerned with the term "priority handling" and with the standard to be used to determine whether priority handling should be granted. In this respect, the FAA stated in Notice 75–24 that the proposal would permit petitions for exemption to be submitted in less than the prescribed period before the desired effective date "where the petitioner demonstrates a need for earlier action by the FAA." This is the standard that has been applied in administering the "good cause" provision of the current regulation and no change in processing was intended. However, in view of the questions raised by some commentators regarding use of the term "priority handling", and to avoid any confusion, the proposal has been revised to retain the current "good cause" provision.

It was suggested by several commentators that the change proposed in Notice 75–24 should not apply to petitions for medical exemptions because unreasonable delay in consideration and disposition of such petitions might result. The FAA wishes to emphasize that the intent of the proposal to increase the lead-time was to expedite all regulatory actions, including exemptions, by providing for the orderly integration of exemption requests into the overall regulatory workload of the FAA. The FAA firmly believes that the 120 day lead-time will not delay processing of medical exemption petitions.

In response to comments concerning exemptions for transportation of hazardous materials, it should be noted that the authority to issue exemptions from the Department of Transportation's regulations governing transportation of hazardous materials is now vested in the Office of Hazardous Materials Operations of the Materials Transportation

Bureau, Department of Transportation. Procedures for processing exemptions from those regulations are set forth in 49 CFR Part 107. Consequently, the change to Part 11 of the Federal Aviation Regulations accomplished by this amendment does not apply to exemptions for transportation of hazardous materials.

One commentator urged that petitions for exemption be published in the Federal Register. In this respect, it should be noted that the FAA has under consideration a notice of proposed rule making which would include publication in the Federal Register of notice of the filing and disposition of petitions for exemption.

Various other comments were received in the nature of suggestions for other changes which the particular commentator believed would improve the exemption and rule-making process. While these suggestions are beyond the scope of the notice and have not been specifically discussed herein, all comments are appreciated and they will be considered in connection with future rule-making action.

The principal author of this document is Richard C. Beitel, Office of the Chief Counsel.

Accordingly, paragraph (b)(1) of § 11.25 of Part 11 of the Federal Aviation Regulations is amended, effective September 6, 1977.

(Secs. 313(a) and 601(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421(c)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Amendment 11–15

Delegations of Authority

Adopted: October 31, 1978 **Effective: November 9, 1978**

(Published in 43 FR 52203, November 9, 1978)

SUMMARY: These amendments delegate certain authority of the Administrator of the FAA to officials within the FAA to issue, amend, or repeal: (1) appendices to parts of the Federal Aviation Regulations; (2) technical standard orders; (3) minimum en route IFR altitudes and associated flight data; and (4) standard instrument approach procedures. They also delegate certain authority of the Administrator to: (1) reconsider refusals of applications for amendments to various operating certificates, operations specifications, and airport operations manuals; and (2) reconsider amendments to operations specifications, and airport operations manuals. In addition, these amendments establish procedures for the reconsideration of denials or grants of exemptions. These amendments also delegate authority to the Regional Directors to grant or deny exemptions from the regulations concerning the certification and operations of land airports serving CAB-certificated air carriers. Finally, the amendments delegate the Chief Counsel's authority in connection with the processing of certain rules. This action is taken to provide more timely governmental response and action. These delegations will reduce review levels within the agency with corresponding savings in time, money, and resources.

ADDRESS: Send comments on the procedures in duplicate to:

Federal Aviation Administration,
Office of the Chief Counsel,
Attn: Rules Docket (AGC–24), Docket No. 18434
800 Independence Avenue, S.W.
Washington, D.C. 20591

FOR FURTHER INFORMATION CONTACT:

Edward P. Faberman, Office of the Chief Counsel,
Regulations and Enforcement Division,
Federal Aviation Administration,
800 Independence Avenue, S.W.,
Washington, D.C. 20591
Telephone: (202) 426–3073

SUPPLEMENTARY INFORMATION:

I. GENERAL

To reduce review levels within rule-making areas that largely involve technical and nonpolicy matters, these amendments delegate certain responsibilities of the Administrator and the Chief Counsel to officials within the FAA and authorize certain other delegations by the Chief Counsel. The reduction of review levels will expedite the rule-making process which will in turn save time, money, and resources and provide more timely governmental response and action. These amendments also establish procedures for the reconsideration of denials or grants of exemptions. The delegations and procedures are accomplished by specific changes to sections of the Federal Aviation Regulations.

II. DESCRIPTION OF AMENDMENTS

A. Authority of "Chief Counsel"

By the addition of a new paragraph (c) to § 11.41, certain authority of the Chief Counsel in processing exemptions under Subpart C of Part 11 (14 CFR Part 11) is delegated to the Assistant Chief Counsel for Regulations and Enforcement. Further, under this paragraph the Chief Counsel may delegate responsibilities in processing petitions for rule making, issuing notices of proposed rule making, and adopting final rules. Section 11.61 of Subpart D (rules and procedures for airspace assignment and use) and § 11.81 of Subpart E (processing of Airworthiness Directives) are amended to delegate to the Assistant Chief Counsel for Regulations and Enforcement the authority of the Chief Counsel in processing rules under these subparts. It should be noted that under the amendment to Subpart C, in contrast to existing Subparts D and E, the Regional Counsel does not act as the Chief Counsel except in processing petitions for exemptions from the requirements of Part 139 (14 CFR Part 139). Further, the last sentence of paragraph (a) of § 11.41 is placed in new paragraph (c) of § 11.41 since new paragraph (c) contains the definitions for the subpart. Finally, paragraph (c) of § 11.53 is deleted since its substance is incorporated in the new paragraph (c) of § 11.41 which relates to the scope of the entire subpart.

B. Appendices to Parts, Technical Standard Orders, Minimum En Route IFR Altitudes and Associated Flight Data, and Standard Instrument Approach Procedures

By amending § 11.49 the head of the Office or Service concerned is delegated the authority to issue, amend, or repeal appendices to parts of the Federal Aviation Regulations. These appendices contain technical details relating to specific sections within the part and they do not involve basic policy considerations. Therefore, the general involvement of the Administrator in regulatory actions related to appendices is not warranted.

Section 11.49 is also amended to delegate the authority to issue, amend, and repeal: (1) technical standard orders; (2) minimum en route IFR altitudes and associated flight data; and (3) standard instrument approach procedures. These delegations were authorized by a document published in 25 FR 6489 (July 9, 1960) and paragraph 802 of Order FSP 1100.1, as amended March 9, 1973. This amendment merely serves to publish these existing delegations in the Federal Aviation Regulations.

C. Reconsideration of Denials or Grants of Exemptions

A new section is added to Part 11 establishing procedures for processing petitions for reconsideration of denials and grants of exemptions. Previously, there has been no prescribed procedure, but normally, reconsideration has been by the Administrator. New § 11.55(a) and (b) codifies this procedure in the Federal Aviation Regulations.

In contrast to the above procedure, new § 11.55(c) provides that, in the case of a petition for reconsideration of a denial of an exemption from the requirements of Part 67 of the Federal Aviation Regulations, (14 CFR Part 67) the petition is to be filed with, and the reconsideration is to be by, the Federal Air Surgeon. The difference in the procedure for reconsideration of denials of Part 67 exemptions is due to the large quantity of Part 67 exemptions requested, approximately 100 a month, and the specialized nature of the medical decisionmaking in these cases which requires specialized medical expertise. A decision on a petition for reconsideration still would be made by the Administrator if the Federal Air Surgeon referred the decision on the initial petition for exemption to the Administrator in accordance with § 11.53.

A petition for reconsideration would have to be based on either a material mistake in fact or law or the presence of an additional fact not presented to the FAA in the initial petition.

D. Airworthiness Directives and Airspace Assignment and Use

Except for the amendments to §§ 11.61 and 11.81, the revisions of Part 11 made by these amendments do not relate to the issuance of Airworthiness Directives and rules concerning airspace assignment and use provided for in Subparts D and E of Part 11. Those subparts already contain delegations sufficient to provide for appropriate decentralization of rule making.

E. Various Operating Certificates, Operations Specifications and Airport Operations Manuals

Parts 121, 127, 133, 137, and 139 of Subchapter G of the Federal Aviation Regulations (14 CFR Parts 121, 127, 133, 137, and 139) are revised to indicate that the Administrator delegates to the head of the Office or Service concerned the authority to reconsider refusals of applications by certificate holders for amendments to various operating certificates, operations specifications, and airport operations manuals, and to reconsider amendments initiated by the FAA to operations specifications and airport operations manuals. Certain editorial changes are also contained in these amendments which make the sections affected consistent with the delegated authority.

F. Exemptions from Part 139

Section 139.19 is revised to delegate to the appropriate Regional Director the authority to grant or deny exemptions from the requirements of Part 139 with the exception of those petitions filed on behalf of military airports. The Assistant Administrator for Airports Programs is authorized to grant or deny the petitions for exemptions from the requirements of Part 139 filed on behalf of military airports. These delegations are authorized because of the local nature of most Part 139 exemptions and the necessity for coordinating a national policy for those exemptions filed on behalf of military airports. Finally, the language in § 11.41 has been changed to more accurately reflect the fact that exemptions are requested "from the requirements of" Part 139 and not "filed under" that part.

III. EFFECTIVE DATE AND REQUEST FOR COMMENTS

Since these amendments are procedural in nature and implement existing statutory authority, notice and opportunity for public comment is not required. In addition, since these amendments are procedural and do not impose an additional burden, good cause exists for making them effective less than 30 days after publication. However, the FAA contemplates a review of the procedures established by these amendments after they have been in operation for at least twelve months. Interested persons are invited to submit such comments as they may desire with respect to these amendments. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All comments received on or before March 9, 1979, will be considered during the review, and will be available both before and after that date in the Rules Docket for examination by interested persons.

IV. ADOPTION OF THE AMENDMENTS

Accordingly, Parts 11, 121, 127, 133, 137, and 139 of the Federal Aviation Regulations (14 CFR Parts 11, 121, 127, 133, 137, and 139) are amended, effective November 9, 1978.

(Secs. 313 and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 and 1421); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the FEDERAL REGISTER June 1, 1978 (43 FR 23925). In addition, these amendments are procedural in nature and the Federal Aviation Administration has determined that the expected impact of these amendments is so minimal that they do not require an evaluation.

Amendment 11–16

Publication of Petitions for Rule Making and for Exemptions in the Federal Register

Adopted: January 30, 1979 **Effective: March 20, 1979**

(Published in 44 FR 6897, February 5, 1979)

SUMMARY: This amendment prescribes procedures for the publication in the FEDERAL REGISTER, in each appropriate case, of (1) petitions, or summaries of petitions, for rule making or exemptions; (2) denials of petitions for rule making, and grants or denials of petitions for exemptions. The amendment enhances the public's ability to comment on any published petition, or summary of a petition. Public participation before the initiation of rule-making procedures and in the exemption process, is expected to improve the quality of administrative decision making. Further, the publication of denials of petitions for rule making and grants or denials of petitions for exemptions should increase public awareness of agency actions. As a result, this amendment furthers the intent of Executive Order 12044. This amendment is not applicable to rules concerning airspace assignment and use and to petitions for medical exemptions.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward P. Faberman, Regulations and Enforcement Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 426–3073.

SUPPLEMENTARY INFORMATION

BACKGROUND

This amendment is based on a Notice of Proposed Rule Making (Notice No. 78–10) published in the FEDERAL REGISTER on July 24, 1978 (43 FR 3936). That Notice invited comment by all interested persons. All persons have been afforded an opportunity to participate in the making of this amendment, and due consideration has been given to all matters presented.

This amendment is part of the FAA's continuing effort to expedite its rulemaking and exemption programs and to make them more responsive to the public. This amendment increases early public participation in the agency's rulemaking process and enhances public awareness of agency actions.

DISCUSSION OF COMMENTS

The FAA received twenty comments from members of the general public, aviation industry, organizations representing consumer groups, and organizations representing pilots and flight attendants. The majority of the comments received were on the overall rule. These comments will be discussed first with a discussion of comments received on specific sections of the amendment to follow.

Those in support of the proposal and their comments were the following:

Avco Lycoming Williamsport Division (Avco) states that they were in "full agreement" with the NPRM if it will facilitate FAA action. As to the publication of summaries, they stated that this "will fill a current gap in public information."

The County of Los Angeles Department of Consumer Affairs states "with regular publication and invitations to comment, the public will be provided with improved opportunity to express its thoughts. . . ."

The Association of Flight Attendants (AFA) states that the FAA "is to be congratulated for its efforts to open its rulemaking procedure to the public."

The Air Line Pilots Association states that it concurs with the basic intent of the NPRM which is in keeping with the Administration's policies to increase public participation in the regulatory process.

The Town-Village Aircraft Safety & Noise Abatement Committee (Town-Village Committee) stated "it is gratifying to see that steps are being considered to let the public become aware of change at the beginning and not after it is too late to alter decisions."

Both the Council on Environmental Alternatives, Inc., and the Independent Federation of Flight Attendants both "strongly" supported the proposal. Letters supporting the proposal were also received from New York State Department of Transportation (NYDOT), Aircraft Owners and Pilots Association (AOPA), Flight Engineers' International Association, Independent Union of Flight Attendants (IUFA) and Mr. Jay Lewin.

Those opposed to the proposal were the following:

M. Richard Berryman states that the proposal concerning exemptions would have the effect of interfering with the leasing of U.S.-registered aircraft to foreign carriers which would impede the optimum utilization of U.S. aircraft, detract from U.S. trade, and adversely impact the U.S. balance of payments.

Cathay Pacific Airways Limited (Cathay) states that as a result of the proposal, the FAA's existing timetable for processing exemptions would be lengthened which would lead to a severe reduction in the lease of U.S.-registered transport aircraft from U.S. sources. Itavia Airlines objected for a similar reason.

The New Hampshire Aeronautics Commission states that it is not in favor of any further enlargement of the Federal Register.

The Air Transport Association (ATA) states that the proposal is not adequately justified, would provide no significant improvement to the existing rulemaking process, would needlessly complicate the process for obtaining exemptions, and that it would cause additional delays to the current procedures.

The Aerospace Industries Association of America (AIA) states the information made available to the public is unlikely to provide a response from the public that will contribute to reasonable and objective rule making and exemptions and will have an adverse effect upon the exemption processing time.

In discussing these proposals, it must be noted that under current Part 11, individuals can submit comments on petitions for rule making and exemptions (14 CFR 11.31). Comments received are reviewed in connection with the disposition of the petition. Although the FAA has not received a substantial number of comments on petitions, it has been our experience that analysis of the comments received has not delayed consideration of these petitions.

The effect of this amendment, therefore, would not be to create a new comment procedure but to expand it so that all interested parties are notified of petitions pending before the agency and are given the opportunity to submit comments on petitions for rule making or exemption.

Section 1 of Executive Order 12044 (March 23, 1978) states that "regulations shall be developed through a process which ensures that . . . opportunity exists for early participation and comment by other Federal agencies, State and local governments, business, organizations and individual members of the public."

The FAA believes that this amendment is consistent with the President's directive. The number of comments received in support of this proposal is evidence that the public will submit comments under the new procedures and does want to participate in the

development of agency regulations and exemptions. In addition, this early public and industry participation will assist the FAA in meeting other objectives contained in Executive Order 12044 including consideration and analysis of meaningful regulatory alternatives.

The FAA believes that the benefits to the public and the agency as a result of this increased participation in the agency's rule-making process far outweigh the additional material that will be published in the FEDERAL REGISTER or the fact that processing time for certain petitions might be increased. The FAA further believes that this amendment will result in a lessening of the time required to process many petitions as a result of increased public awareness of the type of exemptions granted by the agency and of the information required to be submitted in support of those petitions. The cost and time involved in the submission of petitions by the public should be lessened by making readily available all petitions previously denied or granted. This should further result in fewer petitions submitted which are identical to ones previously denied. In addition, the amount of time spent by agency officials in assisting petitioners in the submission of documentation should also be lessened. As a result of this and since the quality of petitions submitted to the agency should be improved, the FAA believes that this amendment will accelerate the decisionmaking process involved in the review of petitions.

The FAA is concerned by the amount of time expended on processing petitions. Petitions must be submitted in accordance with the requirements of § 11.25(b)(1) which requires that petitions "be submitted at least 120 days before the proposed effective date of the exemption." The FAA will closely monitor these procedures to ensure that delays do not develop as a result of these new procedures. If necessary, adjustments will be made to eliminate any problems encountered.

It must be emphasized that submittal of all information required by these procedures by petitioners will assist the FAA in the handling of petitions in a timely manner. Failure to submit all required information, particularly summaries as required by § 11.25(c) and (d), will increase FAA processing time and delay publication.

SPECIFIC COMMENTS

AVAILABILITY OF INFORMATION

The Town-Village Committee suggests that since many individuals do not receive the Federal Register, then notices should be mailed to individuals on a mailing list. The FAA does have a Notice of Proposed Rulemaking (NPRM) Distribution system in which members of the public can obtain copies of specific NPRMs or to receive copies of NPRMs relating to a specific FAR Part. Persons interested in obtaining copies of NPRMs in accordance with these procedures should contact:

Federal Aviation Administration
Office of Public Affairs
Attn.: Public Information Center, APA–440
800 Independence Avenue, S.W.
Washington, D.C. 20591

The FAA is reviewing the possibility of including distribution of information submitted to the FEDERAL REGISTER pursuant to this amendment in a similar manner.

AFA suggests that a summary of rule-making actions maintained in the Offices of the Regional Counsel for each region should be maintained in the Office of the Chief Counsel. The Office of Chief Counsel does maintain dockets for regional actions, however, these actions will not be included in summaries maintained under this amendment. As a result of the number of actions handled by the regions, summarizing them might create an undue administrative burden on the agency. The FAA will reexamine this decision based upon experience with the operation of this amendment.

PROPOSED EFFECTIVE DATE

AFA suggests that since petitions for exemptions are submitted without a proposed effective date, it is difficult for interested parties to know when their comments must be submitted. Therefore, they suggest that § 11.25(b) should clearly specify that a proposed effective date of the exemption is required. Under new § 11.27(c), twenty days will be allowed for public comment. Final action will not be taken until the comment period has been completed. Thus, the public will know the specific date by which their comments must be submitted.

COMMENT PERIOD

AFA suggests that subsections (b) and (c) of section 11.27 should be amended to state that summaries will be published within 7 days after receipt. While the FAA will make every effort to publish the summaries when received, priorities and staffing limitations may prevent publication of these summaries immediately. In addition, FAA documents are only published twice a week as a result of Federal Register requirements. Therefore, the FAA believes that requiring publication of these summaries within a certain time frame would create an undue administrative burden on the agency.

Section 11.27(c) states that 20 days will be allowed for public comment after publication of a petition for exemption. The IUFA states that "as NPRMs will be allowed 60 days, so should the petitions for exemptions." NYDOT suggests that 30 days rather than 20 days should be allowed for public comment on petitions for exemptions. In determining the time period allowed for the submission of comments, the need to provide adequate time for public response must be balanced against the continued handling of petitions in a timely manner. The FAA believes that a 20 day comment period will enable the agency to meet both of these objectives. In this connection, it must be noted that § 11.47(a) states that comments submitted after the closing date "are considered so far as possible without incurring expense or delay."

ACAP recommended in its comments that the proposal be modified to state that the agency has 120 days after the closing of the initial comment period to initiate rule making or else deny the petition. They state that "by acting in this time frame, the Administration can assure the petitioner and the public at large that it is moving swiftly on the resolution of important safety questions." Although the agency does respond to most petitions for rule making within this time frame, the response to a particular petition is dependent upon regulatory priorities within the agency (many involving safety issues), staffing limitations, and the complexity of the issues raised. Since these factors vary and to a large extent are not under the agency's control, a time limitation such as the one proposed by ACAP would not be beneficial and in fact would in many cases result in the premature denial of petitions.

The agency is aware, however, that as a result of these priorities agency action on a particular petition is often delayed without the petitioner having knowledge of its current status. The FAA does believe that a person who has submitted a petition for rule making should be kept apprised as to where it is in the regulatory process. Therefore, a paragraph (k) is added to § 11.27 which will require that a petitioner be advised of the status of a petition for rule making 120 days after it is published in the FEDERAL REGISTER and every 120 days thereafter until it is denied or issued as a notice of proposed rule making.

CONTENT OF SUMMARY

The AFA suggests that the following information be contained in the published summary:

1. If the Administrator determines to reduce the public comment period, deviations should be published in the Federal Register as should the basis of the Administrator's determination.
2. The basis upon which the disposition was made and the reasons why contrary comments submitted to the FAA were rejected.
3. FAA's findings on each safety issue to be stated with the justification for those findings.

As to the suggestion that deviations to the length of the public comment period be published, if a period other than stated in the regulation is utilized, that information will be included in the summary. The purpose of the publication of the summaries is to keep the public advised as to FAA rulemaking activities. The summary is not intended to be a complete synopsis of agency documents. Instead, it is intended that parties interested in a particular petition for exemption or rule making will write to the FAA or go to the FAA docket section to obtain a copy of the document which interests them. Therefore, it is not necessary to publish the basis upon which the disposition was made or why certain public comments were rejected since that information will be contained in the final disposition.

DOCUMENTS TO BE PUBLISHED

AFA suggests that "emergency exemptions" be published as required by section 11.27(e), (f), (g) and (h). They state that publication, although after the fact, would inform the public of the FAA's actions in emergency situations. The FAA concurs. The provisions of § 11.27(f), (g), and (h) will apply to emergency actions.

AFA suggests that petitions for rule making and exemptions involving Airworthiness Directives and those involving Part 139 should be subject to the same publication and comment requirements as are other petitions. ALPA states that exemptions from the requirements of Part 139 and "deviations allowed by the Administrator from the provisions of Part 121 should be made subject to the formal processing," since they raise questions concerning such matters as the adequacy of the crash, fire and rescue status at airports, and operating requirements such as survival equipment aboard aircraft.

Exemptions processed under Part 139 and exceptions to airworthiness directives are processed by FAA regional offices and basically concern local situations which are of limited interest to the general public. To subject these regional actions to the publication requirements of section 11.27(c) would create an undue administrative delay which would slow down the regulatory process. After further review, however, the FAA agrees that exemptions granted or denied under Part 139 or airworthiness directives should be published in accordance with section 11.27(f) and (g). Accordingly, section 11.27(i) and (j) are amended to require publication of these summaries.

As to ALPA's suggestion that regulatory deviations be included in the exemption process, the FAA does not believe that deviations are analogous to the regulatory actions included in this amendment. Deviation authority is contained in specific regulations. The public was given the opportunity to comment on the deviation authority when the regulation in which it was contained was promulgated. As a result of this and since deviations are granted at the local level primarily for specific factual situations, the FAA does not believe that they should be included within the publication requirements of this amendment.

The FAA does agree that deviation requests should be documented and available to the public. Therefore, the FAA is instituting a new procedure whereby deviation requests submitted by a carrier will be maintained in a docket by the FAA certificate holding office having jurisdiction over the carrier's operations. Individuals wishing to examine a particular docket should contact the certificate holding office in order to make arrangements to review the docket.

The NPRM specifically solicited comments on the usefulness of publishing medical exemptions from Part 67. The only comments received on this issue were from NYDOT and AOPA. NYDOT stated that they did not see any value in publishing summaries of FAA actions on medical exemptions. AOPA stated that if action is taken to insure that the published exemptions do not violate the airmans' privacy, then they feel that publication of these exemptions will be particularly helpful. As a result of the large number of these petitions processed monthly (75–100), the FAA does not believe that it would be beneficial to publish summaries of agency action on medical exemptions at this time. The FAA will reexamine this decision after experience is gained with this amendment.

Several commenters have expressed the view that the proposed procedures might interfere with the leasing of U.S.-registered aircraft to foreign carriers. They state that timely processing of these petitions for exemption is essential to insure optimum utilization of U.S. aircraft, develop U.S. trade, improve relations with foreign governments, and stabilize U.S. balance of payments. These commenters state that in order to complete such a lease agreement, it is often necessary to obtain exemptions from various sections of the Federal Aviation Regulations relating to issuance of U.S. airman certificates, maintenance requirements, and minimum equipment lists. They further state that expeditious handling of a petition for exemption in these situations is essential before the lease agreement can be completed.

As previously stated, the FAA believes that these procedures will not delay the agency's exemption process. In this connection, it must be noted that a petitioner seeking expedited handling of a petition for exemption is obligated under § 11.25(b)(1) to submit the petition at least 120 days before the proposed effective date of the exemption unless good cause is shown. The FAA does agree, however, that in certain circumstances, such

as in foreign lease arrangements, a one or two day period may be critical to the consummation of the lease. In a situation where a petitioner has met the obligation to show why the petition is not submitted 120 days before the proposed effective date and where any delay might be detrimental, the FAA believes the public comment procedures of § 11.27(c) should not apply. A situation in which detriment to the petitioner is shown would fall within the "good cause" provision of § 11.27(j)(3).

In order to maximize public involvement in the exemption process, however, the types of petitions to which this exception is applicable will be strictly limited. Section 11.27(j)(3) is amended to set forth these limitations. The factors considered in this "good cause" determination are (1) whether the relief sought is routine and similar to other exemptions issued in the past or would set a precedent; (2) whether the time required for publication would be detrimental to the petitioner, and (3) whether the petitioner has filed the petition in a timely manner. It must be emphasized that the burden to show that "good cause" exists under § 11.27(j)(3) is on the petitioner. The petitioner must present sufficient information in the petition, so that a determination under this section can be made.

Although in these cases, a summary of the petition for exemption will not be published in accordance with § 11.27(c), a summary of a grant of exemption (§ 11.27(e)) or a denial of exemption (§ 11.27(g)) will be published. In this connection, it must also be noted that under new section 11.55(a) and (b), effective November 9, 1978 (43 F.R. 52203) there are procedures for reconsideration of denials or grants of petitions for exemption. Therefore, the public will have an opportunity to submit their views if they contest the grant of an exemption and submit a petition for reconsideration.

REVIEW OF COMMENTS

ACAP states that proposed § 11.27(g) is broadly written and could be interpreted as permitting the Administrator to deny a petition solely on the basis of adverse initial reaction during the comments phase. Under this section, the agency is required to make a determination as to whether the petition justifies the relief requested. This determination must satisfy judicial requirements. Therefore, the FAA does not believe that this section need be amended.

ADOPTION OF AMENDMENT

Accordingly, the Federal Aviation Administration amends Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

(Secs. 313 and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 and 1421); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the FEDERAL REGISTER June 1, 1978 (43 FR 23925). In addition, this amendment is procedural in nature and the Federal Aviation Administration has determined that the expected impact of it is so minimal that it does not require an evaluation.

Amendment 11-17

Revised Mailing Addresses

Adopted: May 16, 1980 **Effective: May 27, 1980**

(Published in 45 FR 35306, May 27, 1980)

SUMMARY: These amendments specify the office to which certain petitions for rulemaking or exemption must be submitted and update the reference numbers of the Enforcement Docket. Consistent with Executive Order 12044, these amendments simplify the process by which petitions are submitted. In addition, these amendments reflect a redesignation of certain offices within FAA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Edward P. Faberman, Regulations and Enforcement Division (AGC-200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: Part 11 of the Federal Aviation Regulations (FAR) states that any interested person may petition the Administrator for rulemaking or exemption. A specific office is not designated where these petitions must be submitted. As a result of this, petitions are submitted to various offices within the agency. Therefore, certain petitions have been misdirected resulting in increased processing time. In order to maintain a current public docket of petitions received and to eliminate processing delays, this amendment requires that certain petitions for rulemaking or exemption be submitted to the Rules Docket (AGC-204), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. The amendment also clarifies where certain other petitions must be submitted. This amendment does not change the procedures relating to (1) airspace assignment and use (which must pursuant to 14 CFR 11.63 (a) be filed with the appropriate Regional Director); (2) petitions for exemption under Part 139 (which must pursuant to 14 CFR 11.25 (b)(2)(i) be filed with the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport); and, (3) Airworthiness Directives (which must pursuant to 14 CFR 11.83 be filed with the Director responsible for the product involved).

In connection with petitions filed under the provisions of § 11.25, among other things they must set forth the text or substance of the rule or amendment proposed, the interests of the petitioner in the action requested; in the case of a petition for exemption, the nature and extent of the relief sought, the reasons why it would be in the public interest, and if appropriate in the case of an exemption, the reason why the exemption would not adversely affect safety.

Certain portions of the Office of the Chief Counsel have been assigned different office routing symbols. As a result of this, it is necessary to delete the symbols currently contained in the regulations and to replace them with the newly assigned ones. FAR Part 13 lists two of these reference numbers in mailing addresses and, therefore, needs to be updated.

Since these amendments are editorial in nature and impose no additional burden on any person, notice and public procedure are unnecessary and good cause exists for making them effective in less than 30 days.

THE AMENDMENTS

Accordingly, Parts 11 and 13 of the Federal Aviation Regulations (14 CFR Parts 11 and 13) are amended, effective May 27, 1980.

[Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502; Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).]

NOTE—The Federal Aviation Administration has determined that this document involves a regulation that is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since these documents are editorial in nature and impose no additional burden on any person, the Federal Aviation Administration has determined that there will be no economic impact and thus no evaluation is required.

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Amendment 11-18
Technical Standard Order (TSO) Revision Program
Adopted: June 2, 1980 **Effective: September 9, 1980**

(Published in 45 FR 38342, June 9, 1980)

SUMMARY: The purpose of these amendments is to adopt a new public procedure to expedite the issuance of standards, known as Technical Standard Orders (TSO), for specified materials, parts, processes, and appliances used on civil aircraft. In accordance with Executive Order 12044, Improving Government Regulations, the new procedure will expedite TSO issuance and amendment, and will result in the substantial reduction of existing regulatory material. Consistent with the President's goal of reforming the regulatory process to eliminate unnecessary requirements, these amendments will enable the FAA to issue and amend TSO s in a timely manner. In addition, it is part of the FAA's continuing effort to simplify the Federal Aviation Regulations. The expeditious issuance of new TSO's and amendment of existing TSO's (presently published as Subpart B of Part 37) are necessary to stay current with the continuing growth and technological advances in aeronautics.

FOR FURTHER INFORMATION CONTACT:

Mr. Eli S. Newberger, Regulatory Projects Branch, AVS-24
Safety Regulations Staff
Associate Administrator for Aviation Standards
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Whenever a material, part, process, or appliance is to be used on an aircraft, it must be approved under the Federal Aviation Regulations (FAR) before it can be utilized. The approval can be obtained in one of the following ways: (1) under a Parts Manufacturer Approval issued under 14 CFR 21.303; (2) in conjunction with type certification procedures for a product, including approvals granted by a supplemental type certificate; (3) under a Technical Standard Order authorization or approval issued under 14 CFR Part 37; or (4) in any other manner approved by the Administrator.

One of the several methods of obtaining approval is by designing and testing the article (material, part, process, or appliance) in accordance with a TSO which contains minimum performance and quality control standards for specified articles. The standards for each TSO are those the Administrator finds necessary to ensure that the article concerned will operate satisfactorily. Since compliance with a TSO is only one method of obtaining an approval, the standards contained in the TSO are not mandatory but are only an optional way of obtaining approval for a particular article. For example, an applicant can obtain approval to deviate from a particular TSO if it shows that the design features provide an equivalent level of safety.

A TSO is not a standard of general or particular applicability designed to implement or prescribe law or policy. It does not fall within the definition of "rule" contained in the Administrative Procedure Act (5 U.S.C. 551). There is no requirement that a TSO be published as a notice of proposed rule making in the *Federal Register*.

Future TSO's will, through incorporation by reference, make maximum practical use of "voluntary standards" as defined by the Office of Management and Budget (OMB) Circular A-119, "Federal Participation in the Development and Use of Voluntary Standards," issued January 17, 1980 (45 FR 4326). By definition of OMB Circular A-119, "voluntary standards" are established generally by the private sector "voluntary standards bodies" and are available for use by any person or organization, private or government. The term includes what are commonly referred to as "industry standards" as well as "consensus standards" but does not include professional standards of personal

conduct, private standards of individual firms, or standards mandated by law. "Voluntary standards bodies" are nongovernmental bodies which are broad based, multimember, domestic, and multinational organizations including, for example, nonprofit organizations, industry associations, and professional technical societies which develop, establish, or coordinate voluntary standards.

The FAA has determined, for the reasons stated in Notice 79–15, published in the *Federal Register* on October 1, 1979 (44 FR 56370), that, in the interest of safety, it is appropriate to adopt new public procedures to facilitate the issuance of TSO's for specified articles used on civil aircraft. The safety aspect of this rule making is particularly important. The fact that TSO's have been part of the complex regulatory structure of the FAA has caused a substantial lag time between regulations and state of the technology. This procedural change should advance by months and even years the implementation of technological improvements in the U.S. aviation system.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matters presented. Significant comments received in response to Notice 79–15 are discussed below. A number of substantive, editorial, and clarifying changes have been made to the proposed rules based on relevant comments and on further review within the FAA. Except for minor editorial and clarifying changes and the changes discussed below, these amendments and the reasons for their adoption are the same as those contained in Notice 79–15.

These amendments are consistent with the agency's responsibility to review the continuing need for regulations and the need to eliminate unnecessary regulations. By eliminating TSO's from the regulations, previously published as Subpart B of 14 CFR Part 37, and making them available through the multiple procedures described below, the FAA has improved the availability of the TSO's and made it easier for the public to locate the most up-to-date standard. In addition, by removing TSO's from the agency's regulatory process, the time available for other matters within the regulatory system will be increased. This will enable the agency to respond in a more timely manner to other issues submitted by the public. This improvement of the regulatory process, to be more responsive to the public, is consistent with Executive Order 12044, issued by President Carter on March 23, 1978.

DISCUSSION OF COMMENTS

Twenty-two individual sets of public comments were submitted in response to Notice 79–15. Several of the commenters were associations that presented the views of manufacturers, operators, and pilots. While the great majority of the commenters were in general agreement with the objective of the proposal, a number of them suggested changes, requested clarification or guidance, and offered specific criticisms. Other commenters proposed changes that are beyond the scope of this rule making.

DISCUSSION OF COMMENTS TO THE NEW PUBLIC PROCEDURE

In general, commenters concerned themselves with the following questions: How would TSO authorizations be obtained? Would foreign countries accept them? How would a request for approval to deviate from any performance standard be handled? How would an interested party request a revision to a TSO? How would a current TSO be affected when a revision to the TSO is made? How would the public comment on a draft TSO? How would the FAA revise the sections of the Federal Aviation Regulations which reference a TSO by TSO number? One commenter expressed concern that adopting the proposal would abolish existing TSO's.

Based on comments received, the FAA has determined that the proposed new public procedure may not have been fully understood as it was explained in Notice 79–15. The purpose of the new public procedure is to expedite the issuance of TSO's for specified articles used on civil aircraft by deleting unnecessary rulemaking steps and by deleting unnecessary material from the regulations. This effort is consistent with Executive Order 12044. There is no change in the requirements for the issuance of TSO authorizations which are relocated from Subpart A of Part 37 to new Subpart O of Part 21. There is no change in the procedure to issue TSO authorizations, to process requests for approval to

deviate from any performance standard, or to request a revision to a TSO. Existing holders of TSO authorizations will continue to retain their current status when new or amended TSO's are issued, unless otherwise specified in the TSO. Manufacturers may request approval to deviate from any TSO using the same procedures as before, now described in new § 21.609.

The new public procedure does not affect the right of the public to comment on a proposed TSO. The public will continue to be invited to participate in the development of documents prepared and issued by industry organizations which the FAA will use by reference in a TSO. The FAA will use the rulemaking process to revise the sections of the Federal Aviation Regulations which reference a TSO by TSO number when there is a need to change the referenced TSO number. The FAA will make available to any interested person an index of each current TSO and each TSO the FAA anticipates will be issued within the succeeding 12 months. The FAA will also invite comments from interested persons on each proposed TSO using a notice in the *Federal Register*.

PUBLIC PROCEDURE

The following is the public procedure, in detail, the FAA will use to develop and issue final TSO's for specified articles used on civil aircraft:

- The FAA will continue to develop draft TSO's and will continue to use, by reference in the TSO, documents prepared and issued by organizations such as the Radio Technical Commission for Aeronautics (RTCA) and the Society of Automotive Engineers (SAE). Notices of RTCA meetings and invitations will continue to be published in the *Federal Register*. This will allow public participation at the early stages of document development.
- Any interested person may request the Administrator to revise or issue a new TSO by submitting a description of the revision sought or a description of the new article for which a TSO is requested.
- The FAA will use several methods to ensure that the public is afforded early opportunities to take part in the TSO decisionmaking process. A draft TSO will be circulated for public comment through the use of mailing lists. Any individual or organization can request to be placed on the TSO mailing list. All those on the list will receive drafts of each TSO. In addition, Advisory Circular 20-110, Index of Aviation Technical Standard Orders, will list those TSO's the FAA anticipates will be issued within the succeeding 12 months. Advisory Circular 20-110 will also list each current TSO and provide information on how to obtain copies of those desired. Finally, the FAA will publish periodically a notice in the *Federal Register* of each proposed TSO and provide notice of how to obtain a copy.
- Any individual or organization wishing to obtain copies of Advisory Circular 20-110, specific draft TSO's, or all such TSO's proposed by the FAA may be placed on a mailing list by submitting a request addressed to the Federal Aviation Administration, Office of Airworthiness, Aircraft Engineering Division, Systems Branch (AWS-130), 800 Independence Avenue, S.W., Washington, D.C. 20591, or by telephoning (202) 426-8395. Interested persons will receive copies of the Advisory Circular and copies of those draft TSO's requested. Any person wishing to submit comments on a proposed TSO will be given 90 days from its issuance date to submit comments.
- All comments received on or before the closing date for comments will be considered by the Administrator before issuing a final TSO.
- All comments submitted will be available, both before and after the closing date for comments, for examination by interested persons in Room 335, FAA Headquarters Building (FOB-10A), 800 Independence Avenue, S.W., Washington, D.C. 20591, between 8:30 a.m. and 5:00 p.m.
- Copies of the final TSO will be mailed to all persons on the mailing list. As in the past, documents prepared and issued by an organization that are incorporated by reference in the TSO will continue to be available to any interested person only from that organization. Final TSO's will not be published in the *Federal Register*.

- Copies of all draft and final TSO's will also be available at FAA Headquarters in the Office if Airworthiness, Aircraft Engineering Division, Systems Branch (AWS-130), and at all regional Flight Standards Engineering and Manufacturing offices.

In summary, the new procedure has numerous opportunities for the public to participate in the development of each TSO. These are: (1) participation in the development of documents prepared and issued by industry organizations, which the FAA may use by reference in a TSO; (2) mailing lists to circulate a draft TSO to the public for comment; (3) an advisory circular to list for the public each TSO the FAA anticipates will be issued within the succeeding 12 months; (4) notice in the *Federal Register* announcing the availability of each draft TSO and invitation for comment; and (5) at least 90 days to submit comments.

DISCUSSION OF GENERAL COMMENTS

One commenter recommended tightening the TSO requirements, citing three airplane incidents (the loss of a piece of tail, the loss of a wing flap, and the failure of a rear bulkhead). This amendment does not address the requirements of any individual TSO. Furthermore, TSO authorizations are not issued for the airframe parts that the commenter cited. FAA approval for these airframe parts is accomplished under the type design approval for the specific airplane.

One commenter cited TSO references in §§ 91.24(a), 91.52, and 121.360 and questioned if the FAA plans to revise these sections to delete the referenced TSO. The FAA is not revising the referenced TSO in these sections. Since Part 37 is being revoked by this amendment, references to TSO's using sections of Part 37 (§ 37.XXX) are revised to reference each TSO by the TSO number.

One commenter stated that there may be problems relating to the enforcement of the provisions of Advisory Circular 20-110 under proposed §§ 21.603(a), 21.607(a), 21.609, and 21.611. It is unclear to what this commenter is referring since the advisory circular merely lists each current TSO and each TSO the FAA anticipates will be issued within the succeeding 12 months.

DISCUSSION OF COMMENTS TO § 11.49(b)

Present § 11.49(b)(2) delegates authority to the Director, Flight Standards Service, to issue, amend, and repeal TSO's under Part 37. The notice proposed deletion of this delegation since Part 37 is being revoked. No unfavorable comments were received on the proposal. Accordingly, the proposal is adopted without change. However, it should be noted that the current FAA official responsible for TSO's is the Director of Airworthiness.

DISCUSSION OF COMMENTS TO § 21.3

Two commenters pointed out that § 21.3 contained most of the requirements of proposed § 21.617 and suggested deleting requirements in proposed § 21.617 that are duplicated in § 21.3. The FAA agrees and comments to proposed § 21.617 are discussed under § 21.3. Section 21.617 adopted by this amendment relates to a different subject than that of proposed § 21.617 which is discussed under § 21.617.

One commenter suggested revising proposed § 21.617(a) and (b) to require mechanical reliability reporting of TSO articles (currently required for Parts 121, 127, and 135 operators) for Part 91 operators or owners. The commenters cited greater user awareness of such problems for justification. Because the FAA is currently reviewing the entire mechanical reliability reporting program and the issue will be addressed at a later date, the suggestion was not adopted.

Another commenter asked if imported articles would be exempt from the reporting requirements of proposed § 21.617. Section 21.3(d)(2) does exempt foreign manufacturers from the reporting requirements of § 21.3(a) because there are existing means by which the FAA obtains the necessary information from the appropriate airworthiness authorities in the country of manufacture. As a result of the information provided by the

foreign authorities, it is not necessary to apply the requirements of § 21.3(a) to foreign manufacturers.

Another commenter suggested removing the phrase "After January 3, 1971" from proposed § 21.617(a) and (b). Based on these comments and upon further consideration, the FAA has amended § 21.3(a), (b), (d), and (e)(3)(ii) to make them applicable to holders of a TSO authorization, relocated proposed § 21.617(f) to new § 21.3(f), deleted the phrase "After January 3, 1971," from § 21.3(a) and (b), and deleted proposed § 21.617.

DISCUSSION OF COMMENTS TO SUBPART O OF PART 21

No unfavorable comments were received on the proposal to amend § 21.305(b) or on proposed §§ 21.609, 21.611, 21.613, 21.615, 21.619, and 21.621. Accordingly, these proposals are adopted without substantive change.

One commenter suggested deleting § 21.305(d) and amending § 43.7 to specify that any alteration or major repair approvals granted under Part 43 be limited to the specific aircraft (by type and serial number) upon which work is performed. The commenter stated that the provisions of § 21.305(d) in conjunction with discretionary functions of § 43.7 would "administratively lead to arbitrary and capricious application of subjective standards." No proposal was made in Notice 79–15 to amend §§ 21.305(d) and 43.7 as suggested by the commenter. Furthermore, since the FAA does not have sufficient information at the present time to justify such amendments to §§ 21.305(d) and 43.7, the suggestion is not adopted.

One commenter suggested placing the TSO procedural requirements under Subpart K instead of proposed Subpart O and questioned the need for the proposed new Subpart O. Relocation of the procedural requirements of Subpart A of Part 37 in new Subpart O, as proposed, would retain the same paragraph format subdivisions which are easy to read and use. This would make the regulations easier to use for all members of the public. Therefore, these requirements are relocated in Subpart O.

One commenter suggested that TSO authorizations be transferable. The FAA does not agree. TSO authorizations are not transferable like type certificates because authorizations are issued based on the person's quality control system and ability to duplicate the article under the TSO system.

§ 21.601

No unfavorable comments were received on proposed § 21.601. However, the FAA is adopting an amendment to § 21.601 by adding paragraph 21.601(c) which states that the Administrator does not issue a TSO authorization if the manufacturing facilities for the product are located outside of the United States, unless the Administrator finds that the location places no undue burden on the FAA in administering applicable airworthiness requirements. This additional requirement is necessary to ensure that proper surveillance can be maintained over the manufacturer's facilities. The need to impose this restriction is based upon the type of surveillance necessary over a manufacturer having a TSO authorization. It is identical to the restriction placed upon manufacturing facilities to which type certificates are issued in accordance with § 21.43 and to which production certificates are issued in accordance with § 21.137 and reflects current practice. A new § 21.617 is adopted to address current practices for approving foreign-manufactured articles designed to TSO performance standards. The procedures of new § 21.617 provide an equivalent to the domestic TSO authorization.

§ 21.603

One commenter objected to proposed § 21.603(b) which continues to allow the holder of an FAA letter of acceptance of a statement of conformance, issued for an article before July 1, 1962, to continue to manufacture that article without obtaining a TSO authorization. The commenter stated that this establishes different levels of safety for the same product because it allows a product to continue to be manufactured under obsolete standards when that product could not meet current standards. Holders of such letters must comply with the requirements of §§ 21.607 through 21.615, 21.619, and 21.621. In general,

when an application for TSO authorization is made, the applicable standards for the article are those in effect on the date of application. The FAA did not propose to revise § 21.603(b) to withdraw letters of acceptance issued before July 1, 1962, or any TSO authorization issued after July 1, 1962, and to require all manufacturers to demonstrate compliance with the current TSO performance standards. No unfavorable comments were received on the proposal to relocate the substance of § 37.3 to new § 21.603. Accordingly, the proposal is adopted without substantive change.

§ 21.605

One commenter recommended revising proposed § 21.605 (a)(2) to require one copy of the technical data required in the applicable TSO issued by the Administrator unless additional copies are requested by the Administrator. The FAA agrees this would reduce the number of copies of the technical data the applicant would need to submit. Another commenter suggested revising the last sentence of proposed § 21.605(a)(3) to add the phrase "or numbers (or combinations thereof)" between the words "letters" and "will." The commenter stated this would allow the use of suffix numerals as well as letters to designate minor changes to TSO articles. The FAA agrees. After further review, the FAA has determined that the use of part numbers in proposed §§ 21.605(a)(3) and 21.611(a) to identify minor design changes would simplify and expedite approval of such changes. This is consistent with Executive Order 12044 in that it lessens the regulatory burden on the public. Accordingly, § 21.605 is adopted with the noted changes.

§ 21.607

One commenter suggested deleting proposed § 21.607(d)(3) because the required weight information is not necessary as a part of the nameplate and it is provided elsewhere. The FAA agrees. Section 21.607(d)(3) is deleted and § 21.607(d) is renumbered. The same commenter recommended amending proposed § 21.607 to list the required data and information currently listed in the performance standards of each TSO to further simplify the TSO system. The FAA has determined that since the data and information listed in each TSO are not common to all TSO's, the recommendation, if adopted, would impose unnecessary requirements on some TSO authorization holders. Accordingly, proposed § 21.607 is adopted without substantive change.

Issue of Letters of TSO Design Approval: Import Appliances

New § 21.617

In order to implement the requirements contained in §§ 21.601(b)(2), 21.603(d) and 21.609(b), the FAA is adopting procedural requirements which reflect current practice for the issuance of letters of TSO design approval for import appliances (see discussion of § 21.601). New § 21.617, which is totally different in subject from proposed § 21.617 (see § 21.3), prescribes the procedural requirements and, as adopted, §§ 21.601(b)(3), 21.603(a), and 21.609(b) are revised to address foreign manufacturers. These procedural requirements reflect the current practice. Adopting this procedure causes no burden on any person and it has the benefit of formalizing the current practice. The FAA finds that notice and public procedure are unnecessary.

NOTE: This rule contains provisions for the issuance of a TSO authorization and a letter of TSO design approval. To differentiate, a TSO authorization is limited to manufacturers of articles (materials, parts, processes, or appliances) located in the United States. These manufacturers must comply with the requirement to submit quality control system data in addition to certifying that their design complies with the pertinent TSO. Conversely, a letter of TSO design approval is processed under the provisions of airworthiness bilateral agreements and is limited to appliances as defined in pertinent airworthiness bilateral agreements. Such approvals do not require submitting quality control data. The quality control integrity of these appliances is attested to by the Certificate of Airworthiness for Export issued by the civil airworthiness authority of the country of manufacture under the provisions of § 21.502.

NOTE: Any article approved under an FAA TSO authorization (domestic) or under a letter of TSO design approval (foreign) only attests to the conformity of the design and quality of the particular article against the TSO performance and quality control standards. It does not convey an installation approval. Accordingly, installation approval must be obtained in a manner acceptable to the Administrator for each particular product on which the article is to be installed. This is not a change in existing practice.

DISCUSSION OF COMMENTS TO PART 37

One commenter suggested revoking only Subpart B of Part 37. The FAA has determined that there is benefit in having all of the certification procedures for products and parts in Part 21 of the Federal Aviation Regulations. Accordingly, the proposal to revoke Part 37 is adopted without change.

NOTE: There is no change in reporting and/or recordkeeping requirements which are relocated from Subpart A of Part 37 to new Subpart O of Part 21.

ADOPTION OF THE AMENDMENTS

Accordingly, Parts 11, 21, 25, 29, 37, 91, 121, 127, and 135 of the Federal Aviation Regulations (14 CFR Parts 11, 21, 25, 29, 37, 91, 121, 127, and 135) are amended, effective September 9, 1980.

(Sections 303(d), 313(a), 601, 603, and 605, Federal Aviation Act of 1958, as amended (49 U.S.C. 1344, 1354(a), 1421, 1423, 1424, and 1425; Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE: The FAA has determined that this document involves regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Amendment 11-19
Redelegation of Authority

Adopted: July 8, 1980 **Effective: September 10, 1980**

(Published in 45 FR 47837, July 17, 1980)

SUMMARY: These amendments redelegate authority formerly held by the Director, Flight Standards Service, to the Director of Airworthiness or the Director of Flight Operations, as appropriate. These amendments are necessary because of a reorganization within FAA Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Eli Newberger, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION: In 1979 Flight Standards Service was reorganized under the Associate Administrator for Aviation Standards. Flight Standards Service was abolished and the Offices of Airworthiness, Flight Operations, and Aviation Safety were established. References to the Director, Flight Standards Service, contained in the Federal Aviation Regulations need to be redelegated to the appropriate new office. In addition, since § 11.49(b)(2) was deleted by Amendment 11-18 (45 FR 38342), § 11.49(b)(3) is designated § 11.49(b)(2).

NOTICE AND PUBLIC PROCEDURE

Since these amendments are editorial and administrative in nature and impose no burden on the public, I find that notice and public procedure are unnecessary.

THE AMENDMENTS

Accordingly, Parts 11, 91, 121, 135, and 137 of the Federal Aviation Regulations (14 CFR Parts 11, 91, 121, 135, 137) are amended, effective September 10, 1980.

[Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).]

NOTE—The Federal Aviation Administration has determined that this document involves a regulation that is not significant under Executive Order 12044, as Implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since these documents are editorial in nature and impose no additional burden on any person, the Federal Aviation Administration has determined that there will be no economic impact and thus no evaluation is required.

Amendment 11-20

Airworthiness Review Program—Amendment No. 8A: Aircraft, Engine, and Propeller Airworthiness, and Procedural Amendments

Adopted: August 27, 1980 **Effective: October 14, 1980**

(Published in 45 FR 60154, September 11, 1980)

SUMMARY: These amendments to the Federal Aviation Regulations update and improve the airworthiness standards applicable to the type certification of aircraft, engines, propellers, related operating rules, and procedural requirements. These amendments are part of the Airworthiness Review Program.

FOR FURTHER INFORMATION CONTACT:
Marvin J. Walker, Regulatory Review Branch, AVS-22
Safety Regulations Staff
Associate Administrator for Aviation Standards
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591
Telephone: (202) 755-8714

SUPPLEMENTARY INFORMATION:

These amendments are the ninth and last in a series of amendments issued as part of the Airworthiness Review Program. The following amendments have previously been issued as part of this program:

Title and FEDERAL REGISTER (FR) Citation

Amendment No. 1: Form Number and Clarifying Revisions (40 FR 2576; Jan. 14, 1975)

Amendment No. 2: Rotorcraft Anticollision Light Standards (41 FR 5290; Feb. 5, 1976)

Amendment No. 3: Miscellaneous Amendments (41 FR 55454; Dec. 20, 1976)

Amendment No. 4: Powerplant Amendments (42 FR 15034; March 17, 1977)

Amendment No. 5: Equipment and Systems Amendments (42 FR 36960; July 18, 1977)

Amendment No. 6: Flight Amendments (43 FR 2302; Jan. 16, 1978)

Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978)

Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; Feb. 4, 1980)

These amendments are for the most part based on Notice 75-31 which was published in the FEDERAL REGISTER on July 11, 1975 (40 FR 29410), as well as a number of proposals contained in the following notices of proposed rule making: Notice 75-10 (40 FR 10802; March 7, 1975); Notice 75-19 (40 FR 21866; May 19, 1975); and Notice 75-26 (40 FR 24802; June 10, 1975). Amendments based on the latter three notices have already been issued as a part of the Airworthiness Review Program, specifically those titled Miscellaneous Amendments, Powerplant Amendments, and Airframe Amendments, respectively. Final action on certain of the proposals was deferred, however, at the time the amendments were issued as further consideration and review of these proposals was considered necessary. In other cases, final action was deferred so that they could be considered together with related proposals contained in other notices.

Certain proposals identified as Group 2 in Appendix I to Notice 75-31 were deferred to be dealt with in a later notice as a part of the Airworthiness Review Program. These proposals all addressed the concept of periodically updating the certification basis of airplane models in long-term production. Such recertification every five or ten years would be intended to ensure that the level of safety of all airplanes in service keep pace with the current level of safety expectations. The FAA has now determined that these proposals more appropriately should be examined as a separate issue in a future regulatory action. Accordingly, the proposals identified as Group 2 in Appendix 1 to Notice 75-31 are being dropped from the Airworthiness Review Program.

Proposals relating to cabin safety and flight attendants, which are identified in this amendment, were extracted from Notice 75–31 (40 FR 29410; July 11, 1975) and handled on an expedited basis. Those rules were published in the Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. The proposals and comments are discussed below. Substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and further review within the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below, these amendments and the reasons for them are the same as those contained in Notices 75–10, 75–19, 75–26, and 75–31.

DISCUSSION OF COMMENTS

The following discussions are keyed to the like-numbered proposals contained in Notices 75–10, 75–19, 75–26, and 75–31, and are presented in the same order as the corresponding amendments found in the rules portion of this document.

Proposal 8–1. The proposal to amend § 1.1 in order to transfer the definitions for rated power and thrust to a new § 33.6 is withdrawn. It is considered that such a change may introduce confusion in the administration of aircraft certification rules. See also Proposal 8–94.

Proposal 8–2. Several commenters object to proposed § 21.16(a) which would delete reference to a "novel and unusual design feature" as a necessary condition for the Administrator to issue special conditions. Special conditions become a part of the designated applicable regulations for type certification of a particular product (aircraft, aircraft engine, or propeller).

One commenter indicates that the proposed revision is unjustified and would lead to indiscriminate rule making, and that instead of simplifying the administration of the requirements it would introduce complexity. Another commenter claims that adoption of proposed § 21.16(a) would introduce uncertainty into design requirements.

One commenter suggests that in lieu of revising § 21.16, the FAA should perform a study of § 21.21(b)(2). (Section 21.21(b)(2) provides for denial of a type certificate if an unsafe feature or characteristic exists in the design under consideration. Before adoption of § 21.16, FAA used § 21.21(b)(2) to issue special conditions in letter form.) This commenter suggests that if § 21.21(b)(2) were to continue to be used to issue special conditions to cover an unsafe design feature or characteristic that is not "novel or unusual," it must be equally applicable to a condition that exists on more than one (earlier certificated) product, further stating that the other product or products must then have been type certificated using existing rules which did not adequately cover the unsafe design feature or characteristic. On this premise, the same commenter asks several relevant questions. When § 21.21(b)(2) is applied, does the FAA make it retroactive to the other involved models? Are Airworthiness Directives (Part 39) issued? Why wasn't a special condition issued against the first applicant when the condition was, in fact, novel or unusual? Why was this not followed by a notice of proposed rule making for future application?

These comments and questions caused the FAA to completely reevaluate its practices in designating the applicable regulations for type certification under § 21.17(a), commonly referred to as defining a "type certification basis."

After further consideration of the comments received as well as FAA practice in designating the applicable regulations, and the objectives of proposed § 21.16, the FAA agrees that this proposal should be withdrawn because of the potential for possible abuse of general rulemaking procedures, of the requirements of the Administrative Procedure Act, and the intent of Executive Order 12044. As explained below, the objectives of proposed § 21.16 will be satisfied by the application of a new FAA policy affecting the designation of applicable regulations for the type certification of new aircraft, aircraft

engines, and propeller designs. These future practices are consistent with the FAA General Rule-Making Procedures of Part 11, the Administrative Procedure Act, and Executive Order 12044.

Section 21.16 is one paragraph of a number of paragraphs used to define the type certification basis of a new product. Companion paragraphs of importance to this discussion include §§ 21.17 and 21.21. Section 21.17(a) provides that the applicable airworthiness standards are (1) those requirements of this subchapter that are effective on the date of application for a type certificate, unless otherwise specified by the Administrator or unless compliance with later effective amendments is elected by the applicant or required by special retroactive regulations (e.g., § 25.2), and (2) any special conditions prescribed by the Administrator in accordance with § 21.16. Section 21.16 provides for the issuance of special conditions when the Administrator finds that the existing airworthiness standards do not contain adequate or appropriate safety standards *because of novel or unusual design features* of the product to be type certificated. Section 21.21(b) (1) permits noncompliance with specific provisions of the airworthiness standards when there are compensating factors that provide an equivalent level of safety. Such determinations are commonly referred to as "equivalent safety findings." Section 21.21(b) (2) provides for the denial of a type certificate, notwithstanding a showing of compliance with the applicable airworthiness standards designated in accordance with § 21.17, if the Administrator finds an unsafe feature or characteristic of the product for the category in which certification is requested.

Sections 21.16, 21.17, and 21.21, taken together with FAA policy in designating the applicable regulations must recognize and balance four important considerations: (1) the FAA has an obligation under Section 601 of the Federal Aviation Act of 1958 to keep the airworthiness standards of this subchapter (i.e., FARs 23, 25, 27, 29, 31, 33, and 35) as current as practicable; (2) the type certificate applicant has a right and a need to know, in very specific terms, what the applicable airworthiness standards will be in order to finalize the detail design of its product and to enable the applicant to make reasonable performance guarantees to its potential customers; (3) in the interests of safety, rapid technological advances presently being made by the civil aircraft industry require that the FAA be able to issue special conditions to address truly novel or unusual design features that it has, as yet, not had an adequate opportunity to envisage in the airworthiness standards through the general rulemaking process; and (4) because the airworthiness standards of this subchapter are intentionally objective in nature to allow flexibility in design, the FAA must retain the prerogatives both to make equivalent safety findings and to deny a type certificate whenever an unsafe design feature or characteristic is found during the type certification process.

The phrase "novel or unusual" as used in § 21.16 is a very relative term. As used hereafter in applying § 21.16 to justify the issuance of special conditions, "novel or unusual" will be taken with respect to the state of technology envisaged by the applicable airworthiness standards of this subchapter. It must be recognized that in some areas which will vary from time to time the state of the regulations may somewhat lag the state of the art in new design because of the rapidity in which the state of the art is advancing in civil aeronautical design and because of the time required to develop the experience base needed by the FAA to proceed with general rule making. Applicants for type certification of a new design have the opportunity to mitigate the impact of not knowing the precise airworthiness standards to be applied for "novel or unusual design features" by consulting with the FAA early in their certification planning when such features are suspected or known by the applicant to exist. It should also be recognized that, because of the intentional objective nature of the airworthiness standards of this subchapter, many new design features which might be thought of as "novel or unusual design features" may already be adequately covered by existing regulations, thus obviating the need to issue special conditions.

Henceforth, the special condition will not be issued for general upgrading of the applicable airworthiness standards when novel or unusual design features are not

involved. Whenever the FAA determines that an upgrading of the airworthiness standards of this subchapter is warranted, the upgrading will be promulgated as an amendment to this subchapter consistent with the general rulemaking procedures of FAR Part 11, the Administrative Procedure Act, and Executive Order 12044. Should the FAA conclude that there is a compelling safety need to apply a proposed amendment retroactively to designs already type certificated or to designs for which a type certificate application is in progress, the retroactive aspects of the proposed amendment, if supportable by a regulatory analysis completed in accordance with Executive Order 12044, will be announced in the notice or proposed rule making for that amendment. Public comments on the proposed retroactive aspects will be considered in determining the applicability of the adopted rule.

A number of products for which special conditions have not as yet been issued are undergoing type certification at the time of this amendment. Should the FAA conclude that recent or future amendments to this subchapter should be applied to these products that would not otherwise be applicable under § 21.17(a) (1) then an amendment to require retroactive application will be proposed and acted upon through the general rulemaking process explained above, in lieu of issuing special conditions under § 21.16.

Also, the provisions of § 21.21(b) (2) will no longer be used to justify the issuance of special conditions. However, just as an Airworthiness Directive may be issued under Part 39 to require the correction of an unsafe condition that is likely to exist or develop in a product of the same type design, notwithstanding a showing of compliance with the applicable airworthiness standards, § 21.21(b) (2) may continue to be used to deny issuance of a type certificate if a similar unsafe feature or characteristic is found during the type certification process, notwithstanding a showing of compliance with requirements designated by § 21.17. The unsafe features and characteristics envisaged by § 21.21(b) (2) are those related to specific design configuration or product characteristics of a particular design, that one would not normally expect the applicable airworthiness standards to specifically preclude because of their intentionally objective nature.

It is the practice of the FAA to develop and publish a Type Certificate Data Sheet as an integral part of each type certificate. The type certification basis is recorded on the Type Certificate Data Sheet for public information. In the future the type certification basis statement will identify not only the applicable regulation, including special conditions, but also will identify all exemptions issued pursuant to Part 11, together with "equivalent safety findings" made in accordance with § 21.21(b) (1).

For the above reasons, Proposal 8–2 is withdrawn.

In considering its disposition of the proposal to amend § 21.16(a), the FAA realizes that a "novel or unusual design feature" today may become a common design feature of the future. The issuance of a like special condition for several product designs will most likely compel general rule making on that subject and the history of that special condition could have a very strong influence on thinking when general rule making is initiated. Also, although special conditions are regulations of particular product applicability, they are issued only in the interest of public safety. For these reasons, Part 11, and § 21.16 of Part 21 are amended to require special conditions to be issued in accordance with the existing general rule-making procedures. As is now the case, a docket will continue to be maintained for each set of special conditions, and all material in the docket will continue to be available for public review.

Proposal 8–3. This proposal is one of a group of proposals dealing with the establishment of Instructions for Continued Airworthiness and the responsibilities of maintenance personnel and aircraft operators with respect to those instructions. The group is made up of the following proposals: 8–3, 8–5, 8–21, 8–25, 8–58, 8–62, 8–64, 8–67, 8–77, 8–80, 8–89, 8–91, 8–92, 8–93, 8–97, 8–98, 8–99, 8–104, 8–106, 8–107, 8–110, and 8–111.

A commenter representing a number of scheduled air carriers objects to the requirement in § 21.31(c) that the type design include the Airworthiness Limitations

section of the Instructions for Continued Airworthiness because of the information to be included in that section. Although this commenter does not object to including mandatory replacement times for life-limited parts in the Airworthiness Limitations section, the commenter strongly objects to including inspection intervals and related procedures. Under proposed §§ 43.16 and 91.163(c), the commenter points out, air carriers would be required to comply with these maintenance-related airworthiness limitations. The FAA does not agree that inspection intervals and related procedures can be omitted from the Airworthiness Limitations section of the Instructions for Continued Airworthiness. For example, the proposed Airworthiness Limitations section on a transport category airplane must contain mandatory inspection intervals and related procedures because the damage-tolerance concept described in § 25.571 is predicated upon the use of such inspections to detect initial cracks in principal structural elements before crack growth under repeated loads could progress to a degree which would cause catastrophic failure of the airplane. However, the FAA does agree that §§ 43.16 and 91.163(c) should permit modification of these intervals and procedures by other FAA approved methods. Accordingly, inspection programs approved under §§ 121.25(b), 121.45, 121.367, 123.21(b), 127.13(b), 127.133, 135.5, 135.17, 135.419, 135.421, and 135.425, as defined by approved operations specifications, or an inspection program approved under § 91.217(e) constitute acceptable alternatives. The appendices to Parts 23, 25, 29, 31, 33, and 35 as adopted in this amendment require the applicant to specify (in the Airworthiness Limitations section) mandatory replacement times, inspection intervals, and related procedures. Sections 43.16 and 91.163(c) have been revised to show that only the inspection times and procedures may be adjusted under approved alternative programs.

A commenter objects to § 21.31(c), which in general is applicable to manufacturers, since continued airworthiness, which is covered in the paragraph, is the responsibility of the operator. Because this comment pertains more directly to § 21.50, it is dealt with in conjunction with Proposal 8–5.

In addition to comments relating to the Instructions for Continued Airworthiness, a commenter objects to § 21.31(a) because the proposal to include a list of drawings and specifications in the type design was not mentioned at the Airworthiness Review Conference. In fact, this proposal did appear as an FAA comment on Proposal No. 565 in the Committee I Workbook (titled "Procedures and Special Subjects") made available to all participants at the conference, and may be found in the docket.

Several commenters object to § 21.31(d) because including analyses in the type design—(1) would be redundant, since it is already required as part of the substantiating data; (2) is unnecessary, since the drawings and specifications required under current § 21.31(a) provide the general information needed by the FAA; and (3) introduces the possibility that the FAA would require the manufacturer to provide any and all data used to prepare the drawings and specifications, thereby delaying type certification. The FAA agrees that proposed § 21.31(d) would serve no useful purpose and it is withdrawn.

Proposal 8–4. A commenter objects that § 21.35(b)(2) eliminates flight testing for reliability, contending that analysis and ground test are not dependable as a basis for certification. In the light of this comment, and after further consideration and experience, the FAA has determined that flight testing for reliability does provide safety information not necessarily obtainable from analysis and ground test. Accordingly, the proposal to delete the reference to reliability in § 21.35(b)(2) is withdrawn.

No adverse comment was received on the proposal to replace the word "airplanes" in § 21.35(b)(2) with the word "aircraft" and this amendment to § 21.35(b)(2) is adopted without change.

Proposal 8–5. A commenter objects to the continued airworthiness provisions of § 21.50(b) (and also proposed § 21.31(c)) contending that—(1) continued airworthiness is the responsibility of the operator/owner; (2) current regulations in Parts 23 and 25 already require manufacturers to make available recommended maintenance procedures for the product at the time of its delivery; (3) current operating rules require the operator/owner to establish and comply with a maintenance program; and (4) with respect

to transport airplanes, the present FAA Maintenance Review Board (MRB) system is an entirely satisfactory way of establishing the means for maintaining airworthiness. Current FAA practice allows operators of new transport category airplanes to utilize FAA MRB recommendations (reference FAA Advisory Circular No. AC 121-22) for starting their maintenance programs, and then vary them with FAA approval as experience and operating conditions dictate. The commenter points out that, contrary to that practice, the amendment will require the manufacturer to obtain FAA approval of its recommended maintenance procedures before the airplane is type certificated, and to obtain FAA approval of revisions to those procedures (necessitated by any improvement change in the airplane) before approval of the change itself. This, the commenter states, will impose a severe and unnecessary hardship on the manufacturer.

On the first and second points, although the operator/owner does have responsibility for continued airworthiness, the FAA has found that the recommended maintenance procedures made available under current regulations are frequently inadequate in scope and content, and often do not provide a sound basis for the operator/owner to maintain the airworthiness of the aircraft. The FAA has concluded that the lack of such recommended maintenance procedures can best be remedied by requiring that they be made available to owners and operators by the type certificate or supplemental type certificate holder. On the third point, while it is true that not all operators/owners are required to establish and comply with a continuous airworthiness program, those that voluntarily wish to set up such a program are often handicapped by the lack of comprehensive instructions, which would be remedied by § 21.50(b). On the other hand, those required to establish a program will benefit from the more detailed and comprehensive instructions made available to them under § 21.50(b). On the fourth point, which is directed toward aircraft that will be maintained in accordance with an FAA approved operations specification and maintenance program under Parts 121, 123, 127, 135, or an approved inspection program under § 91.217(e), the FAA recognizes that these procedures for maintaining airworthiness of the products have functioned satisfactorily. In this regard, the FAA expects that operating segments of the air transportation industry would continue to work with type certification applicants in defining adequate maintenance instructions prior to type certification. The FAA MRB document, which is a product of contributions made by both the operators and manufacturer, could be picked up by the type design holder and included as a part of the required Instructions for Continued Airworthiness, thus continuing the usefulness of the existing MRB practices for the original entry into service of new product designs. Likewise, the additional maintenance instructions that would be required and which are not typical to MRB documents, but are presently required in air carrier operators' FAA approved maintenance programs, could also be picked up by the type design holder. Therefore, the screening process that would be utilized by the FAA in reviewing such maintenance documents would not unnecessarily delay type certification or approval of design changes after certification. See also the discussion under Proposal 8-3.

A commenter questions the need for the provision in § 21.50(b) requiring that the Airworthiness Limitations section of the Instructions for Continued Airworthiness be furnished with each aircraft, engine, or propeller. The FAA agrees that this provision is unnecessary, as the type certificate holder must make the manual available, and the operator/owner must comply. To require a manual to be furnished with each equipment would be redundant, and in some instances, would be unnecessary. Accordingly, the requirement that the Airworthiness Limitations section be furnished with each airplane or product is revised to require that the section be furnished to each owner of the type.

A commenter objects to § 21.50(b) insofar as it applies to rotorcraft type certificated under Parts 27 and 29, contending that the manufacturer is already required under those parts to furnish a maintenance manual, which has allegedly been proven adequate. The FAA does not agree. The proposed Instructions for Continued Airworthiness, which are broader in scope and more detailed than the maintenance manual currently required under Parts 27 and 29, would provide the operator/owner with the minimum amount of

information needed to maintain the airworthiness of increasingly complex rotorcraft currently being designed.

A commenter suggests that § 21.50(b) be revised to make it clear that an aircraft manufacturer need not supply Instructions for Continued Airworthiness pertaining to engines and propellers until the complete aircraft is delivered to the first retail purchaser. The continued airworthiness instructions for propellers and engines should be provided to the aircraft manufacturer to facilitate transmittal to purchasers of the aircraft.

A commenter notes that § 21.50(b) would require an aircraft manufacturer to make the Instructions for Continued Airworthiness available to the owner upon delivery of the aircraft and to any other person required to comply with any of the terms of those instructions *upon request.* Since such a request could be made before the first aircraft delivery, it could impose an unnecessary burden on the aircraft manufacturer. The commenter suggests that § 21.50(b) be revised so that such a request need not be filed until after delivery of an aircraft to the first owner. The FAA agrees that an early request for the Instructions for Continued Airworthiness could impose an unnecessary burden on the manufacturer. Additionally, the FAA notes that airplanes can be delivered to an operator, prior to full type certification, with a provisional airworthiness certificate to allow activities such as crew training, and therefore prior to the approval of the Airworthiness Limitations section. Accordingly, the phrase "upon request" has been deleted from § 21.50(b) and the language has been revised to require that at least one set of the complete Instructions for Continued Airworthiness be furnished upon delivery to the customer, or subsequent to issuance of the first standard certificate of airworthiness, whichever occurs later.

Proposal 8-6. Commenters object to the proposal to make § 21.97(b) applicable to all products rather than to engines only because—(1) the volume of paperwork would increase out of proportion to any benefits that might be gained; (2) the applications for supplemental type certificates would be significantly more complex, since there are frequently many configuration variations within an aircraft model and a fleet operator would have to list all of the configurations or make separate application for each; and (3) the term "specific configuration" must be defined if the proposal is to be properly administered. In light of these comments and after further consideration, the FAA concludes that this proposal requires additional study and it is withdrawn.

Proposal 8-7. No unfavorable comment was received on the proposal to amend § 21.123 to require a manufacturer to submit a manual describing its production inspection system and means for controlling materials and parts. Accordingly, the proposal is adopted without substantive change.

Proposal 8-8. A commenter objects to § 21.143(a)(2) contending that substitution of the word "supplier" for "subsidiary" introduces a major change to the requirements, involving increased paperwork and costs. The FAA does not agree. The FAA has consistently administered § 21.143(a)(2) as applying to *all* raw materials, purchased items, parts, and assemblies supplied to the prime manufacturer. The change does not involve increased paperwork or costs because it is a semantic change which clarifies the definition of persons or entities subject to the quality control data requirements of § 21.143, without expanding any of those requirements. The use of the term "subsidiary" is unclear because it implies that there must be a corporate connection between the prime manufacturer and his supplier. Accordingly, the language has been revised to reflect the FAA's intent that the quality control data requirements of § 21.143(a)(2) apply to all "suppliers" of each prime manufacturer. For similar reasons and for internal consistency, § 21.143(b) is revised to replace the term "subsidiary manufacturers" with the term "suppliers".

Proposal 8-9. No unfavorable comment was received on the proposal to amend § 21.182 to ensure that the proposed new § 45.11(c) is cross referenced. Accordingly, the proposal is adopted without substantive change.

Proposal 8–10. A commenter raises the question whether a special flight permit issued under § 21.197(a) (3) would serve as a certificate of airworthiness for international flights. The FAA notes that international flights cannot be conducted under special flight permits issued under § 21.197 unless specifically authorized by the foreign authorities concerned.

Another commenter objects to § 21.197(a) (3) (ii) because as worded, the individual aircraft would have to be flown for at least 50 hours, thereby defeating the purpose of the original proposal (as submitted for the Airworthiness Review) which aimed at eliminating unnecessary delays in obtaining FAA approval of customer demonstration flights. The commenter suggests that this provision be changed to stipulate that the aircraft type must have been flown for at least 50 hours. The FAA agrees that since the proposal concerns aircraft manufactured under a production certificate, and since the aircraft type could have been flown for at least 50 hours during the type certification program, the 50 hours of flight provision is not necessary. However, the FAA does not agree with the commenter's suggested revision. It is necessary to require that production flight tests for the individual aircraft involved be satisfactorily completed before that aircraft is flown on customer demonstration flights. Accordingly, § 21.197(a) (5) is added to prescribe this condition in place of the 50 hours of flight provision.

The same commenter also suggests that § 21.197(a) (3) (ii) should be made applicable to aircraft produced under a type certificate only, since such aircraft received close production surveillance by the FAA. The FAA agrees that a production certificate should not be the limiting factor in obtaining FAA approval of customer demonstration flights. If the aircraft has been demonstrated to otherwise meet all the safety requirements for a standard airworthiness certificate, then customer demonstration flights could be permitted. This proposal is adopted by the addition of § 21.197(a) (5).

In addition, the commenter suggests that proposed § 21.197(a) (3) (ii) be amended with a reference to the maintenance and inspection programs called for under § 21.195 for Experimental and Subpart C Provisional Type Certificates. Such procedures would unnecessarily complicate the issuance of permits for customer demonstration flights and would in effect nullify the original proposal. The portion of the proposal calling for maintenance and inspection programs in these instances is therefore withdrawn.

Proposal 8–11. No unfavorable comments were received on the proposal to amend § 23.253(b) (3) to ensure that high speed buffeting does not become severe enough to prevent the pilot from reading the instruments or controlling the airplane. Accordingly, the proposal is adopted without substantive change. Also see Proposal 8–28.

Proposal 8–12. No unfavorable comments were received on the proposal to amend § 23.361 to redefine the limit engine torque load conditions to be considered for turbine engine installations and to make other clarifying changes. Accordingly, the proposal is adopted without substantive change.

Proposal 8–13. The FAA does not agree with a commenter who suggests that the lead-in of § 23.371 be revised to make the gyroscopic load requirements applicable to piston as well as turbine engines. The FAA has no information to indicate a need for coverage of piston engines in this regulation, nor was any submitted by the commenter.

Another commenter concurs with § 23.371, assuming that a rational analysis of loads under § 23.371(a) is an alternate to the loads specified in § 23.371(b). This assumption is correct. No change to § 23.371 was proposed in this regard. Section 23.371 is adopted without substantive change.

Proposal 8–14. A commenter suggests that the word "operated" in § 23.729(c) be replaced by the word "lowered". The commenter states that the intent of the rule is to ensure that the gear can be lowered in an emergency. The FAA concurs, but the word "extended" is used to preserve the internal consistency of the section. Section 23.729(c) is revised accordingly.

This commenter also questions whether § 23.729(e) would require an "up lock". The commenter is evidently referring to a "lock" in the sense of a positive means other than hydraulic pressure, as required to keep the gear extended by § 23.729(b). Section 23.729(e) contains no such requirement.

339-942 O - 81 - 4

Another commenter suggests that the second sentence of § 23.729(e) be revised to add the words "and secured" after the words "fully extended" and "fully retracted" in order to clarify what functions the lights would indicate to the pilot. The first sentence of the paragraph clearly states that the indicators should inform the pilot that the gear is secured in the extended or retracted position.

A commenter states that the proposal is redundant since the requirement is already in effect. The FAA does not agree. This is one of several new provisions being incorporated into the current regulations to assure the reliability of small land-plane landing gear systems.

After further review, the FAA has determined that the words "and warning device" should be removed from the heading of § 23.729(e) to preclude confusion between the requirements of this paragraph and those of § 23.729(f). Section 23.729 is adopted with editorial changes and the revisions discussed.

Proposal 8–15. A commenter objects to § 23.903(f) on the grounds that it imposes new and unjustified criteria for restart capability of reciprocating engine powered airplanes. The FAA believes the requirement to be fully justified. Accidents have occurred with multiengine reciprocating powered, as well as turbine powered airplanes because pilots have not been adequately apprised of the engine restart envelope for their airplane. Therefore, the requirement must apply to both types of engine installations.

This commenter further states that § 23.903(g) is acceptable provided that the "restart requirement is understood to be within the restart envelope for the aircraft (if one is approved for the aircraft)." Present § 23.903(e) (3), as applicable to turbine engine powered small airplanes, states that it must be possible to restart an engine in flight, and § 23.903(f) requires that an approved restart envelope be established. Therefore, development of a restart envelope would be required for the approval of each turbine engine powered small airplane. As adopted, § 23.903(g) requires that, following in-flight shutdown of all engines, electrical power for ignition exists throughout the approved restart envelope.

Another commenter states that it seems inconsistent to require that electrical power be provided for ignition but not for rotational capability sufficient for an engine start. The FAA does not agree. As adopted, the rule provides for those circumstances where engine windmilling speed is sufficient for restarting but insufficient to provide electrical power for ignition.

The proposal is adopted without substantive change. However, § 23.903(f) is revised to make it clear that the specified in-flight engine restart capability is required throughout the required altitude and airspeed envelope.

Proposal 8–16. No unfavorable comment was received on adding a new § 23.905(d) referencing propeller blade pitch control system durability requirements. Accordingly, § 23.905(d) is adopted without substantive change. For discussion of a related proposal to add a new § 35.42, see the discussion under Proposal 8–103.

Proposal 8–17. A commenter suggests that since the requirement for fuel tanks to retain fuel during a landing with landing gear retracted or collapsed may be subject to individual interpretation, advisory material on compliance methods should be reviewed with industry prior to implementation of the rule. The FAA does not agree. The revision merely clarifies an existing requirement. Section 23.967 is adopted without substantive change.

Proposal 8–18. A commenter recommends that the proposal to add a new § 23.991(d) which requires that operation of any fuel pump does not adversely affect continuous engine operation, be withdrawn or its adoption delayed while the compatibility of engine and airplane fuel systems is studied. The compatibility between these systems must be established in the design process, and the relevant design considerations are well known. Delaying the requirement in favor of additional study is not warranted.

Another commenter contends that the requirement is beyond the needs of safety. The FAA agrees that the proposed requirement is too restrictive and § 23.991(d) is revised to provide that the operation of any fuel pump may not affect engine operation so as to create a hazard.

Two commenters disagree with adding a new § 23.991(d), contending that it eliminates present fuel system designs. The FAA has no information to suggest that compliance with the revised section, as discussed above, would be impossible using present fuel system designs, nor was any presented by the commenter.

The proposal is adopted with the revision discussed above.

Proposal 8–19. No unfavorable comments were received on the proposal to amend § 23.1305(n) to permit movement of the propeller blade up to 8° below the flight low pitch position before an indication of the movement is required for the flight crew. Accordingly, the proposal is adopted without substantive change.

Proposal 8–20. For comments related to withdrawal of the proposal to revise § 23.1521(a), see Proposal 8–94.

Proposal 8–21. Since the proposal for § 23.1529 is substantively identical to those for §§ 25.1529 (Proposal 8–58), 27.1529 (Proposal 8–64), and 29.1529 (Proposal 8–77), all comments on these proposals are considered here.

A commenter notes that although the explanation for § 23.1529 makes it clear that the Instructions for Continued Airworthiness need not be finalized until delivery of the first airplane, the proposal itself seems to require that they be finalized before type certification. The commenter suggests that this point be clarified. The FAA agrees, and §§ 23.1529, 25.1529, 27.1529, 29.1529, 31.82, 33.4, and 35.4, are revised accordingly.

In response to a commenter representing a group of scheduled air carriers, the FAA notes that, except for the Airworthiness Limitations section, there is no requirement that any operator/owner use the Instructions for Continued Airworthiness referred to in §§ 23.1529, 25.1529, 27.1529 and 29.1529. Moreover, the new §§ 43.13(a), 43.16, and 91.163(c) allow the use of other methods. In particular, the use of maintenance manuals and continuous airworthiness maintenance programs developed under current Parts 121, 123, 127, and 135, or an inspection program approved under current § 91.217(e), would be acceptable alternatives to the Airworthiness Limitations section. This commenter suggests that language be added to § 25.1529 to make it clear that alternatives to the Instructions for Continued Airworthiness (except the Airworthiness Limitations section) may be used. This suggestion was not adopted because §§ 43.16 and 91.163(c) make this provision sufficiently clear.

Proposal 8–22, 8–23, and 8–24. Final action on Proposals 8–22, 8–23, and 8–24 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8–25. The proposals to add an appendix to Parts 23, 25, 27, and 29 (Proposals 8–62, 8–67, and 8–80) setting forth Instructions for Continued Airworthiness are substantively identical and are discussed below. Unless otherwise stated, the discussion refers to the designated sections in each of the appendices mentioned above.

§ XX.1(a). A commenter objects to the concept of specifying requirements (as opposed to providing guidance) for the preparation of Instructions for Continued Airworthiness, contending that such requirements would lead to time-consuming negotiations between the manufacturer and the FAA, and that some flexibility in providing the instructions is necessary. The appendix sets forth, in broad objective terms, the *kinds* of information the Instructions for Continued Airworthiness must contain. Within this framework, the manufacturer would be free to develop detailed instructions appropriate to its aircraft. The FAA is confident that the appendix provides a reasonable measure of flexibility, and anticipates no difficulties or delays in determining the acceptability of the Instructions developed by the manufacturer.

§ XX.1(b). A commenter objects to the requirement that Instructions for Continued Airworthiness be provided for appliances, contending that—(1) this information is often not available from the appliance manufacturer; (2) even when available, the information sometimes has to be revised for the particular application in a manner not approved or intended by the appliance manufacturer; and (3) the information necessary for customized equipment installations would be unreasonably costly to develop. The FAA does not agree. Such information, which is essential to the continued airworthiness of the aircraft, should be provided for each required product. Accordingly, the language of § XX.1(b) is revised to make it clear that if the aircraft manufacturer does not supply continued airworthiness instructions for the product, the Instructions for Continued Airworthiness for the aircraft must include this information. See also the discussion under § XX.3(a) (5) (i).

A commenter objects to the proposal to include information on engines and all appliances in the Instructions for Continued Airworthiness, contending that—(1) such information should be furnished by the engine or appliance manufacturer; and (2) with respect to appliances, only those for which standards have been established by FAA should be covered. On the first point, manufacturers of new engine designs are required to supply the information for their products under new § 33.4. Manufacturers of new aircraft using currently certificated engines are required by § XX.1(b) to provide the information for the engine in their Instructions for Continued Airworthiness for the aircraft. In practice, the FAA expects this information to be developed and supplied by the engine manufacturer. A similar requirement for appliances would be administratively impracticable because of the large number involved. On the second point, it should be noted that specific performance and safety standards have not been established for all essential appliances. However, upon further review, the FAA concludes that it would be unreasonable to require the aircraft manufacturer to cover appliances other than those required in applicable regulations. Accordingly, § XX.1(b), as adopted, refers only to appliances "required by this chapter."

§ XX.2. A commenter suggests a revision of this section to make clear that the Instructions for Continued Airworthiness may consist of a series of volumes, or may be supplied in other than book form, such as on microfilm or microfiche. The language in § XX.2 is sufficiently broad to cover these acceptable alternatives. Reference to the Air Transportation Association of America Specification No. 100 (where it appeared) is deleted from § XX.2(b) because it is nonregulatory.

§ XX.3, lead-in paragraph. A commenter objects to the requirement that the contents of the manual "be prepared to be understood by the persons who will be responsible for maintaining" the aircraft or product, contending that—(1) it would impose a subjective standard that would be impossible to meet; and (2) it could be interpreted to mean that, in some circumstances, manuals for aircraft to be exported must be prepared in the language of the country of export. In light of these comments, the first sentence of the lead-in paragraph of § XX.3, is revised to read as follows: "The contents of the manual or manuals must be prepared in the English language." This conveys the intent of the original proposal. A commenter points out that there may be different levels of maintenance instructions, directed at different classes of operators. For example, the maintenance instructions provided to a fleet operator or commuter airline may be more comprehensive than those provided to a fixed base operator. Any level of maintenance instructions considered appropriate by the manufacturer may be submitted, provided that those instructions comply with the minimum standards in the appendix.

§ XX.3(a) (2). A commenter recommends that the requirement for complete descriptions be limited in scope to the "standard" aircraft and "quantity-installed" optional equipment, contending that it would be virtually impossible to devise "custom" maintenance manuals for each product because of the many combinations of equipment that may be ordered by the purchaser. In addition, the commenter states that a manual containing all of these combinations would be difficult to use. The FAA does not agree. To achieve its purpose, the Instructions for Continued Airworthiness must contain information on each item of equipment required by regulation to be installed on the

aircraft. The FAA notes that supplemental type certificates (STC's) are required for installation of equipment not a part of the type certificate, and that this maintenance manual requirement is equally applicable to the STC applicant.

§ XX.3(a) (3). A commenter recommends that since maintenance personnel have no need for the kind of operating information provided in a Pilot's Operating Handbook, the paragraph be revised to require only *basic* principles of equipment control and operation. The FAA agrees, and § XX.3(a) (3) now refers to "basic control and operation information."

§ XX.3(a) (5) (i). A commenter recommends that applicants be allowed to refer to a component manufacturer as a source of information instead of including the information in the Instructions for Continued Airworthiness. The commenter argues that many component manufacturers prefer to maintain control of their maintenance information to ensure that it is up to date. In other cases, maintenance at the factory may be required because of the complexity of the equipment. The FAA recognizes that some accessories, instruments, and equipment have an exceptionally high degree of complexity, requiring specialized maintenance techniques, test equipment, or expertise. In such cases, it would be in the interest of safety to allow the applicant to refer to the appropriate manufacturer in the maintenance instructions. The FAA does not agree, however, that such reference should be allowed in other circumstances. Section XX.3(a) (5) (i) (redesignated § XX.3(b) (1)) is revised accordingly.

A commenter recommends that the last sentence of § XX.3(a) (5) (i), be revised to allow reference to a separate inspection program, rather than include it in the maintenance instructions, so that the inspection program could be better kept current and also tailored to an individual operator's needs. The FAA does not agree. The inspection program must be set forth in the Instructions for Continued Airworthiness to ensure its availability to those who will benefit from it.

The FAA, after further study of § XX.3(a) (5) (i), has decided that the provision should specifically require a description of applicable maintenance or wear tolerances. Section XX.3(a) (5) (i) (redesignated § XX.3(b) (1)) is clarified in this regard.

§ XX.3(a) (5) (ii). A commenter objects to the words "could occur" in this paragraph because it encompasses everything within the realm of possibility, thereby unnecessarily increasing the volume of the maintenance instructions. The phrase "probable malfunctions" replaces the phrase "typical malfunctions that could occur" in § XX.3(a) (5) (ii) (redesignated § XX.3(b) (2)).

§ XX.3(a) (5) (iii). A commenter suggests that this paragraph would be clearer if the first three words and the last five words are deleted. Section XX.3(a) (5) (iii) (redesignated § XX.3(b) (3)) is revised accordingly.

§ XX.3(a) (5) (iv). A commenter suggests revision of this paragraph to make it clear that the overweight landing check refers to the condition in which a certificated landing weight is lower than certificated takeoff weight, since the aircraft manufacturer cannot speculate what damage might be done to an aircraft that takes off and must immediately land at a weight near the certificated takeoff weight. This comment may have merit for certain aircraft. Moreover, since an overweight landing is but one of several occurrences which would necessitate a check to determine aircraft damage, to single out one occurrence would imply that the others need not be covered in the maintenance instructions. Accordingly, the words "checks after an overweight landing" are deleted from § XX.3(a) (5) (iv) (redesignated § XX.3(b) (4)).

§ XX.3(b). A commenter recommends deletion of the requirement for an overhaul manual or section, contending that—(1) there are many products that, for safety reasons, should not to be overhauled; and (2) the manufacturer must make the technical assessment as to whether a product can be safely overhauled. In the light of these comments, and after further consideration, the FAA finds that those portions of § XX.3(b) that provide for overhaul information only (except for engines), should not be required in the Instructions for Continued Airworthiness. Accordingly, §§ XX.3(b) (1) (i), XX.3(b) (1) (ii),

XX.3(b) (1) (iv), XX.3(b) (1) (viii), and XX.3(b) (3), are withdrawn. The other provisions of § XX.3(b) specify information that is needed for purposes other than overhaul.

§ XX.3(b) (1) (iii). No adverse comment was received on this proposal to require structural access plate information. Accordingly, it is adopted as proposed, but redesignated § XX.3(c).

§ XX.3(b) (1) (v). No adverse comment was received on this proposal to require instructions on special inspection techniques. Accordingly, it is adopted as proposed, but redesignated § XX.3(d).

§ XX.3(b) (1) (vi). A commenter points out that no part can be restored to its original condition by protective coatings or treatments. The FAA agrees, and § XX.3(b) (1) (vi) (redesignated § XX.3(e)) is revised to make this clear and to require only the information necessary to apply protective treatments to the structure after inspection.

§ XX.3(b) (1) (vii). No adverse comment was received on this proposal to require data on structural fasteners. Accordingly, it is adopted as proposed, but redesignated § XX.3(f).

§ XX.3(b) (1) (ix). No adverse comment was received on the proposal to require a list of special tools. Accordingly, it is adopted as proposed, but redesignated § XX.3(g).

§ XX.3(c). Three commenters object to the concept of supplying generalized repair data. One contended that—(1) the nature of the damage may not be known in a particular case, though it may appear to fall under a general repair "fix"; (2) the safety of the product may be seriously impaired by repairs made in such instances; and (3) the manufacturer can provide alternate means for a mechanic to obtain repair data. In the light of these comments, the FAA agrees that it is not necessary to include the repair information in the Instructions for Continued Airworthiness as proposed. Accordingly, proposed § XX.3(c) is withdrawn.

§ XX.4. A commenter suggests that the manufacturer should be allowed to list items in the Airworthiness Limitations section that it deems necessary to maintain structural integrity, where such items are not called out in the applicable airworthiness standards. Another commenter, representing the scheduled airlines, objects to the inclusion, in the Airworthiness Limitations section, of mandatory replacement times for parts other than life-limited parts and of mandatory inspection intervals. The resolution of these comments is discussed under Proposal 8-3. The language proposed for the Airworthiness Limitations sections of the appendices to Parts 23, 25, 27, and 29 is being retained, except that the mandatory replacement times, mandatory inspection intervals, and related procedures are specified as those associated with structural integrity—including those approved under current § XX.571. It also is made clear that FAA approved alternative programs may be used. To avoid unnecessary restriction being placed on operation, only these items are listed in the pertinent Airworthiness Limitations section. Other items can of course be listed in other sections of the Instructions for Continued Airworthiness.

Proposal 8-26. The addition of new §§ 25.101(i) and (j) would set forth requirements for automatic systems that affect performance, including automatic takeoff thrust control systems (ATTCS). In view of the evolving technology of automatic systems, the special features and functions of each design, and the complex interrelationships with other systems, the FAA has concluded that specific regulations are premature and that safety considerations can be more advantageously addressed in special conditions for specific systems. Accordingly, Proposal 8-26 and related Proposals 8-34, 8-48, and the § 25.1305(c) (9) portion of 8-50 are withdrawn.

Proposal 8-27. The revision of § 25.111(c) (4) will permit changes in power or thrust by an automatic takeoff thrust system but prohibit any change requiring action by the pilot when determining the takeoff path. Although specific proposals relating to criteria for automatic takeoff thrust systems have been withdrawn, the FAA believes that this proposal should be retained as it standardizes the procedure for determining the takeoff path, and is consistent with current practice.

One commenter implies that this rule change will add the task of monitoring conditions and instruments and thereby increase the pilot workload. Other commenters suggest that a limited provision for manual throttle setting be included, or are opposed to the proposal completely on the grounds that safety will be compromised in service. Since the rule will apply in the context of a determination of performance rather than an operating requirement, the proposal is adopted without change.

Proposal 8–28. A commenter suggests that the term "impair" in § 25.253(a) (2) (iii) be changed to "significantly impair". The FAA does not agree. In present high altitude, high Mach number jet airplanes, any recovery from upset or speed anomaly must be done essentially by reference to flight instruments. Therefore, any buffet or vibration condition which would in any way impair the pilot's ability to accurately interpret instrument information cannot be tolerated. The same commenter stated that some interpretative material on vibrational frequencies and levels of acceleration would be useful. Use of interpretative material would divert attention from the primary consideration, impairment of pilot ability, which is qualitative. Proposed § 25.253(a) (2) (iii) is adopted without substantive change.

Proposal 7–17. Although no unfavorable comment was received on the proposal to amend § 25.305(d), two commenters state that their agreement was with the understanding that both the discrete gust and the continuous turbulence analyses are required. Present § 25.341(a) requires that limit load factors be established by reference to a discrete gust encounter. Present § 25.305(d) specifies that the dynamic response of the airplane to vertical and lateral continuous turbulence must be taken into account. Both analyses are required.

Two commenters recommend that present § 25.341 be amended to require dynamic loads analysis by reference to discrete gusts having varying gust gradient distances. The FAA does not agree. The combination of discrete gust analysis under § 25.341 and continuous turbulence analysis under § 25.305 is less complex than the method described by these commenters and provides sufficient substantiation of strength. The proposal is adopted without substantive changes.

Proposal 8–29. Many negative comments were received on the proposal to revise § 25.307(a) to require ultimate load tests for each normal and fail-safe critical load condition. Three commenters indicate that the proposed regulation would add to the cost and time required for certification although present airplane safety records do not support the need for a change. One commenter points out that the design philosophy used for commercial transports, due to the dominant influence of the economic requirement for long life without structural fatigue problems, often produces reserve margins of safety. Another commenter proposes that ultimate load tests be limited to structures such as composites, which substantially differ from conventional structure. The FAA agrees that to conduct ultimate load tests for all critical load conditions would greatly increase the amount of testing required, which is not warranted by the safety record since there have been no service features which indicate that present methods of substantiation are inadequate. In many cases failures in service result from conditions such as fatigue or corrosion which are not covered by ultimate load tests. The proposal to require ultimate testing of all structural components therefore is deleted. In some cases, however, analysis must be supplemented by limit and/or ultimate load tests. The amendment, as adopted, is revised accordingly.

Proposal 8–30. Several negative comments were received on §§ 25.365(e) and (f), requiring airplane designers to consider pressure vessel decompression resulting from the loss of any nonplug door, detonation of a bomb within the cabin at all probable locations, and engine disintegration. Several commenters oppose designing for the loss of a nonplug door, stating that there is no reason why nonplug doors cannot be designed to be as safe as plug doors. These commenters suggest that the door design criteria be upgraded to improve door integrity. The FAA agrees that door integrity should be improved to the extent that design for their loss is not justified. Therefore § 25.783 is revised in response to Proposal 8–35 to require this improved level and § 25.365(e) (1) is withdrawn.

Many commenters object to designing for all possible bomb detonations and probable bomb locations. A commenter points out that airworthiness requirements in the past have attempted to safeguard aircraft against structural and mechanical failure, human error, natural hazards, etc. They note that no one has attempted to incorporate into airworthiness requirements the consequences of homicidal or suicidal tendencies. Another commenter states that the aircraft industry has to accept responsibility for compensating the public for loss or injuries resulting from defects in its products, and the inclusion of a bomb damage requirement in Part 25 could significantly extend the grounds of possible product liability actions, particularly with the imprecise requirements of § 25.365(e). Many commenters state that the wording of § 25.365(e)(3) is so vague as to make its implementation impossible. The FAA notes that, ultimately, minimizing the loss of airplanes as a result of bomb explosions is a ground security problem.

A commenter suggests an alternative to § 25.365(e)(3) which would establish a relationship between the design maximum opening and the cross-sectional area of the pressurized shell. The FAA agrees that the proposed relationship provides an acceptable method for determining hole size. The FAA has determined that the maximum hole size required should be 20 square feet, a value contained in Airworthiness Directive 75–15–05 (August 11, 1975) pertaining to openings in wide-body transports. Section 25.365(e)(3) is revised to allow the maximum opening to vary as a function of the cross-sectional area of the pressurized shell to account for the differences in size between narrow and wide-body transports and is redesignated and adopted as § 25.365(e)(2).

The FAA finds that the maximum opening specified in adopted § 25.365(e)(2) will exceed the opening that would result from causes other than bomb explosions or engine disintegration, and that a probability safety analysis to determine hole size in passenger or cargo areas resulting from other causes is not needed. Thus, proposed § 25.365(f) is withdrawn.

In light of the comments received on proposed § 25.365(e)(4), and after further consideration, the FAA concludes that openings caused by airplane or equipment failure can occur in any compartment, and that partitions, bulkheads, and floors should be designed for openings from these causes. Thus, proposed § 25.365(e)(4) is revised accordingly, redesignated, and adopted as § 25.365(e)(3).

No adverse comments were received on proposed § 25.365(e)(2) to require design to withstand penetration of the cabin by a portion of an engine following engine disintegration and the proposal is redesignated § 25.365(e)(1) and adopted without substantive change.

Amendment to § 25.571(a)(3). Because of the change to § 25.1529 adopted in this amendment, the reference to the "maintenance manual" in § 25.571(a)(3) is no longer appropriate. For consistency, § 25.571(a)(3) references the Airworthiness Limitations section of the Instructions for Continued Airworthiness.

Proposal 8–31. Numerous unfavorable comments were received on the proposal to add a new § 25.633 requiring that essential systems be designed to minimize damage caused by detonation of a bomb in the airplane. Most commenters contend that there is no means to protect essential systems from all possible bomb detonations and that bomb size and location cannot be rationally defined. Several commenters indicate that the separation of essential systems on modern airplanes presently provides a measure of protection and that the proposed requirements of § 25.633 are beyond the state of the art.

The FAA agrees that a rational means of determining and defining all possible bomb size/location combinations which would damage essential systems does not exist. Therefore, the proposal is withdrawn.

Proposal 8–32. Several commenters object to the proposed horizontal stabilizer "trim-in-motion" aural warning requirement of § 25.677(e) on the grounds that the aural environment in today's cockpits is already cluttered and that finding new and distinctive aural warnings is becoming difficult. They further suggest that small increments of trim change should not cause aural warning, and that warnings should be given only when a

safety-of-flight hazard exists. One commenter suggests that there is no need for separate aural warning on aircraft having direct trim control wheels in the cockpit.

The FAA agrees with the comments and upon further review concludes that the proposal is premature and unworkable. Accordingly, it is withdrawn for further study.

Proposal 8–33. Several adverse and supporting comments were received on the proposal to add a new § 25.685(e) requiring arrangement of control systems to provide an airplane with the capability of continued safe flight and landing in the event of an inflight localized structural failure. Several commenters agree with the intent of the proposal and propose minor changes. One commenter agrees with the intent of the proposal, but believes that only failures which have not been shown to be extremely improbable need be considered. Commenters state that the intent of the proposed rule change is already encompassed by § 25.365(e) which would require that floor failure resulting from rapid decompression be shown to be extremely improbable.

A commenter further states that present § 25.671(c) requires control systems to be designed to be tolerant of failures, and that control system damage is more likely from other sources. The commenter claims that service experience and rational analysis show that the floor structure provides the best available protection for the control system from damage from these other sources.

After further study the FAA agrees with the commenters that the primary objectives of this proposal are adequately covered by several existing sections of FAR 25. For example: § 25.365(e) requires that the floor be designed for pressure vessel opening which is a function of the cross-sectional area of the fuselage; § 25.571 requires all structure to be damage tolerant where practical; § 25.671 requires that control systems be tolerant of failures, including exterior damage; § 25.629 requires freedom from flutter under failure conditions; § 25.631 requires protection of controls in the empennage structure from bird strikes; and § 25.901(d) requires design precautions be taken to minimize the hazards to the airplane, including control systems, in the event of an engine rotor failure. The proposal therefore is withdrawn.

Proposal 8–34. For an explanation of the withdrawal of the proposals concerning automatic systems that affect airplane performance, one of which is the proposal to add a new § 25.705, see Proposal 8–26.

Proposal 8–35 and 2–59. Several commenters object to the requirement in § 25.783(e) that provisions for the inspection of door locking mechanisms must be discernable under all possible lighting conditions. The commenters state that allowance should be made for use of supplemental lighting such as a flashlight to aid in the inspection. The FAA agrees and the section is revised accordingly.

A commenter states that direct visual inspection is only needed for external doors for which the initial opening movement is not inward and which are pressurized or for which an inadvertent opening could prevent continued safe flight and landing. Although these comments have merit, they go beyond the scope of Proposal 8–35 and interested parties have not had an opportunity to comment on these changes. No change to the section is being made based on these comments. Several commenters object to the redundancy of a dual warning system requirement and state that in lieu of redundancy, a reliability level should be specified. Further comments state that all external doors do not require this level of reliability. The FAA agrees that this reliability level could be specified and should apply only to external doors for which initial movement is not inward, and the section is changed accordingly. The present language defining where door warning systems are required is retained, as no change in present practice is intended.

A commenter suggests that § 25.783(e) should specify several good design practices. These design practices are desirable but are not essential, since the necessary level of safety can be obtained by alternate means under § 25.783.

Several commenters object to new § 25.783(f), suggesting that it apply only to nonplug type doors and doors whose loss would present a probable hazard. The FAA agrees that provisions to prevent unsafe pressurization can be limited to doors whose loss would

present a probable hazard. However, the FAA does not agree that it should be limited to nonplug type doors because a plug door is defined as one whose initial opening is inward and this feature does not necessarily provide complete assurance that an unsafe pressurization will not occur with subsequent opening of the door in flight. The clarifying phrase "to an unsafe level" has been added to § 25.783(f). The intent is to prevent pressurization to a level which would be hazardous if an unlocked external door inadvertently opened.

Several commenters object to proposed new § 25.783(g) (Proposal 8–35), stating that it would unnecessarily preclude the use of nonplug type doors above 45,000 ft. The FAA agrees that nonplug type doors can safely be used at altitudes above 45,000 ft., since adequate warning systems and door integrity are provided by § 25.783(e). Proposed new § 25.783(g) is withdrawn.

A commenter proposes that for the door whose opening would be a hazard, the door and immediate surrounding fuselage, door mechanisms, and warning system be designed for any combination of failures (including improper operation) not shown to be extremely improbable. The FAA agrees. In place of the proposals in 8–30, with regard to §§ 25.365(e) (1), (3), and (4), a rule is included to require determination by safety analysis that inadvertent opening of doors which could prevent continued safe flight and landing is extremely improbable.

Two commenters state that the criteria for passenger egress in the revision to the second sentence of § 25.783(g) (Proposal 2–59 of Notice 75–10) should be evacuation time, and not the rate of passenger egress through a given exit. The FAA agrees. Revision of the second sentence of § 25.783(g) is redesignated as § 25.783(i) and the reference to § 25.561(a) (3) in the proposal is corrected to reference § 25.561(b) (3).

Numerous negative comments concern proposed new § 25.783(j), which requires that lavatory doors open into the cabin to preclude anyone from being trapped in the lavatory. The commenters state that this requirement is overly restrictive on design and that an outward opening door could have an adverse effect on aisle width and emergency evacuation capabilities if such a door jammed open. The FAA agrees that inward opening doors can be designed to prevent anyone being trapped in a lavatory in cases of incapacitation or for other reasons. Thus, new § 25.783(j) is revised to delete the requirement that lavatory doors open into the cabin.

Proposals 8–36, 2–60, and 8–37. Final action on Proposals 8–36, 2–60, and 8–37 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; Feoruary 4, 1980).

Proposal 8–38. One commenter objects to adding a new § 25.792 to require a sign indicating whether lavatories are occupied, asserting that it would be inappropriate for general aircraft certificated under Part 25. Two commenters doubt that the proposed rule would achieve the objective of preventing aisle congestion near lavatories. They point out that many existing aircraft have similar signs which have not prevented people from "standing in line" for lavatories. Also, passengers can cause congestion in aisles for other reasons. One of the commenters states that lighted signs in a darkened cabin; i.e., during movies or rest periods, would annoy passengers, and that the rule might foster a proliferation of signs throughout the cabin. Finally, one commenter is concerned that any increase in the number of lighted signs might distract the passengers' attention from more essential notices.

Based on the comments and upon further review, the FAA finds that the proposed requirement would not achieve the objective sought. Accordingly, the proposal is withdrawn.

Proposal 8–39. Final action on Proposal 8–39 was taken in Airworthiness Review Program Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–40. Final action on Proposal 8–40 was taken in Operations Review Program Amendment No. 8 (45 FR 41586, June 19, 1980).

Proposal 8-41. A commenter suggests that new § 25.851(a) (5), which replaces current § 25.853(f), be expanded to prescribe four fire extinguishers for a passenger capacity of 100 or more, and to require at least one CO_2, dry chemical, or all purpose fire extinguisher near lavatory and galley areas. These suggested changes are beyond the scope of the notice. However, changes in these requirements are appropriate and the FAA is conducting a research program to establish comprehensive standards and guidance information pertaining to the selection of portable fire extinguishers, taking into consideration types and quantities of extinguisher agents, extinguisher performance, and other factors. Regulatory changes based on the findings of this research program will be proposed in the next airworthiness standards review.

Sections 25.851(a) (5) and (a) (6), which consolidate hand fire extinguisher requirements, are adopted without substantive change.

Proposals 8-42, 2-18, 2-65, 2-114, and 2-160. Final action on Proposals 8-42, 2-18, 2-65, 2-114, and 2-160 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8-43. Final action on Proposal 8-43 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8-44. For a discussion of proposed § 25.905(c), see the discussion under Proposal 8-103. The proposal to add a new § 25.905(c) is adopted without substantive change.

Proposals 8-45 and 8-96. The proposed amendments to §§ 25.939 and 33.65 are being deferred for consideration in a forthcoming notice of proposed rule making of the Aircraft Engine Regulatory Review Program.

Proposals 8-46, 3-35, and 8-47. Final action on Proposals 8-46, 3-35, and 8-47 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8-48. For an explanation of the withdrawal of the proposals concerning automatic takeoff thrust control systems, one of which is the proposal to add a new § 25.1143(f), see Proposal 8-26.

Proposals 8-49 and 3-41. Final action on Proposals 8-49 and 3-41 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; Oct. 30, 1978).

Proposal 8-50. For an explanation of withdrawal of the proposals concerning automatic takeoff thrust control systems, one of which is the addition of a new § 25.1305(c) (9), see Proposal 8-26.

One commenter objects to revising § 25.1305(d) (1), stating that significant aerodynamic forces acting on the powerplant nacelle make the direct measurement of thrust impractical. The FAA agrees that such forces may be significant. This commenter further objects to the revision, stating that it is beyond the state of the art to prohibit a parameter from being used if the accuracy of the indication will be adversely affected by any engine malfunction or damage. The FAA agrees that precise values of thrust provided by a malfunctioning, damaged, or deteriorated engine are unnecessary, provided that any changes in thrust due to engine malfunction, damage, or deterioration are indicated to the pilot. The paragraph is revised to require that the indication must be based on the direct measurement of thrust or of parameters that are directly related to thrust.

Although concurring with § 25.1305(d) (1), one commenter states that he would prefer to retain the existing requirements and delete the words ",or to indicate a gas stream pressure that can be related to thrust,". The FAA does not agree. The change suggested by this commenter would eliminate the requirement for thrust information and would retain the requirement for change-of-thrust information only. It also would provide a lower level of safety than the adopted paragraph.

This commenter also states that § 25.1305(d) (1) should be complementary to a similar requirement in Part 33 of this chapter. The FAA does not agree. In current practice, the airframe manufacturer determines how performance should be met. The choice of a

means to indicate thrust is negotiated between the airplane manufacturer and the engine manufacturer. The factors which influence the final choice are substantial and may vary among airplane designs. These factors may not be known to the engine manufacturer at the time of engine type certification. Another commenter states that the need for an actual value of thrust is not obvious, whereas indication of a loss of thrust would satisfy the original proposal. The FAA agrees that the actual value of thrust is of little value to the pilot. Section 25.1305(d) (1) is revised to specify that the indicator indicate thrust, or a parameter related to thrust, to the pilot.

Proposal 8–51. No unfavorable comments were received on the proposal to change the reference in § 25.1307(h) for fire extinguishers in connection with Proposal 8–41. Accordingly, the proposal is adopted without substantive change.

Proposal 8–52. Final action on Proposal 8–52 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–53. Several commenters point out a number of service deficiencies with proposed § 25.1421 which defines the requirements for cargo compartment fire detection systems. They contend that the requirement for the detection system to actuate a warning within one minute of the start of a fire is too restrictive. One commenter cites the results of FAA tests which show average fire detection times to be from 1.75 to 5 minutes. The commenters also suggest that the tests necessary to show compliance with the warning requirements are not clearly defined. Finally, one commenter points out that fires in baggage containers and other enclosed containers can burn for a considerable time before detection is likely by fire detectors in the cargo compartment.

The FAA does not concur that the one-minute requirement is too restrictive. A survey of fire detection technology has indicated that the state of the art permits detection of a fire in less than one minute after inception. In addition, current standards do not define the test procedures necessary to show compliance with warning requirements. The new one-minute requirement is intended to improve the standards in this regard.

The proposal is adopted without substantive change.

NOTE: This proposal has been carried erroneously under § 25.1421 which pertains to megaphones. It will be included in the amendment as a new § 25.858.

Proposal 8–54. Comments received from several commenters reflected confusion over the intent of proposed § 25.1439(c). It was noted that much of what was intended by proposed § 25.1439(c) is included in existing § 25.1439(a) as amended by Amendment 25–38 (41 FR 55454; 12/20/76), provided that the portable oxygen requirements of § 25.1447(c) (4) are retained. Amendment 25–38 emanated from Airworthiness Review Program Notice No. 2 (40 FR 10813; 3/7/75), and was adopted (41 FR 55468; 12/20/76) after publication of Airworthiness Review Program Notice No. 8 (40 FR 29420; 7/11/75) which contained proposals 8–54 and 8–55. The FAA agrees that the existing regulations require much of what was intended by proposal 8–54, provided that proposal 8–55 is withdrawn. The FAA further agrees that additional clarifications are needed before further amendments are made to § 25.1439. Therefore the FAA withdraws both proposals 8–54 and 8–55. The subject of protective breathing equipment will be addressed in a forthcoming notice of proposed rule making.

Proposal 8–55. The proposal to delete § 25.1447(c) (4) is withdrawn for the reasons stated for withdrawal of Proposal 8–54.

Proposal 8–56. For comments related to the proposal to revise § 25.1521(a), and for the withdrawal of that proposal, see Proposal 8–94.

Proposal 8–57. Final action on Proposal 8–57 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–58. For comments related to the proposal to amend § 25.1529, see Proposal 8–21.

Proposal 8–59. A commenter objects to the proposed new § 25.1557(e), calling for a placard on each flight attendant seat to indicate that it may be occupied by a flight

attendant, asserting that such placarding is redundant and that a proliferation of placards in the aircraft will only serve to confuse the passengers and make all placards less effective. The commenter also states that the proposal would prohibit non-flight attendant airline personnel who are cognizant of emergency procedures from occupying flight attendant seats when the aircraft is full. The FAA concludes that a new aircraft certification rule is unnecessary to achieve this result and the proposal is withdrawn.

Proposals 8-60 and 8-61. Final action on Proposals 8-60 and 8-61 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 7-55. A commenter recommends that discrete gusts with varying gradient distances be added as a supplement to Appendix G to Part 25. The FAA disagrees because past experience with the use of discrete gusts with varying gust gradient distances has indicated that knowledge with regard to how gust intensity varies with gust gradient distance is not currently available to the designer. The research and development work accomplished in the area of dynamic response to continuous turbulence has indicated that the continuous turbulence criteria of Appendix G to Part 25 is the most rational approach currently available which gives consistent strength levels for airplanes of different characteristics and missions.

A commenter recommends that paragraph (a) of Appendix G be revised to delete the requirement for considering combined stresses based on both vertical and lateral components of turbulence. The commenter states that the current practice of combining root-mean-square stresses (shear, moment, and torsion) resulting from gust calculations involving only purely vertical or lateral components of turbulence is a realistic, practical method for combining stress. The commenter contends that the methods for realistically combining statistical load quantities involving both vertical and lateral components of turbulence have not been satisfactorily developed in the current state of the art. After further review the FAA agrees. Paragraph (a) of Appendix G is revised to delete the requirement for considering the combined stresses resulting from the vertical and lateral components of turbulence.

A commenter recommends that paragraph (b) (3) (i) of Appendix G be revised to require a gust intensity of $U\sigma = 75$ fps gust velocity in the interval 0 to 20,000 ft. altitude with a linear decrease to 30 fps at 80,000 ft. altitude. This recommendation would obviate the need to do mission analysis to justify lower levels of loads than those required to meet the design envelope gust intensity factor of 85 fps for new airplanes whose characteristics are similar to previous designs which have been shown to be adequate for the lower level of gust intensity being proposed. There is no technical need for new aircraft which are similar to existing aircraft with regard to response characteristics and basic mission profiles to make extensive mission analysis computations in order to establish their adequacy with regard to loads resulting from encounters with continuous turbulence if they are designed for the gust intensity shown to be adequate for the existing design. Therefore, it is acceptable to use a gust intensity value of 75 fps from 0 to 20,000 ft. altitude, and a linear reduction from 75 fps at 20,000 ft. to 30 fps at 80,000 ft., provided the new design is comparable to a similar design with extensive satisfactory service experience. These criteria, which have been under discussion between FAA and industry for over 10 years, are proposed as new rules rather than acceptable means of complying with existing rules. Paragraph (b) (3) (i) is revised accordingly. The commenter also recommends that paragraph (d) (1) be revised to require a gust intensity of $U\sigma = 60$ fps on the interval 0 to 20,000 ft. altitude and be linearly decreased to 2? fps at 80,000 ft. altitude. The FAA disagrees. The gust intensities in paragraph (d) (1) are based on the distribution of gust intensity with altitude which were developed in the basic research for the development of continuous turbulence criteria and are, therefore, considered reasonable as a lower design envelope limit for mission analysis. A cost analysis was provided by the commenter to justify the lower gust intensities, but the FAA finds that this cost analysis was based on "design envelope analysis" alone. Paragraph (c), which is an alternative to paragraph (b), provides for a "mission analysis". Actual experience has

shown that "mission analysis," which considers airplane operational characteristics, has been used in the past in lieu of the 85 fps intensities to prevent weight and cost penalties. Paragraphs (c) and (d) of Appendix G are adopted without substantive change.

A commenter recommends that paragraph (d) of Appendix G be revised to delete the reference to "fail-safe loads" since such loads are not provided in Appendix G. The FAA agrees. Paragraph (d) of Appendix G is revised accordingly.

A commenter recommends that proposed paragraph (e) of Appendix G be deleted since acceleration levels measured at the pilot station on current conventional aircraft can be established by flight demonstration much more easily and with less cost than by use of an expensive analysis considering response to continuous turbulence. Upon further review, the FAA has determined that it lacks sufficient information to specify the right combination of analysis and flight test to determine the acceleration levels at the pilot's station during continuous turbulence. Accordingly, proposed paragraph (e) of Appendix G is withdrawn. The current requirements related to operation in turbulence are adequate to determine the response at the pilot's station during continuous turbulence.

Proposal 8–62. For comments related to the proposal to add a new Appendix G to Part 25, see Proposal 8–25. Appendix G (redesignated Appendix H) to Part 25 is adopted with the changes discussed in Proposal 8–25.

Proposal 8–63. Final action on Proposal 8–63 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Amendment to § 27.571. Because of the change to § 25.1529 adopted in this amendment, the reference to § 27.1529(a) (2) in §§ 27.571(b), (c), (d) (1), (d) (3), and (e) is no longer appropriate. The reference is changed to "§ A27.4 of Appendix A". This discrepancy was overlooked in Notice 75–31 (40 FR 29410; July 11, 1975). Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 8–64. For comments related to the proposal to amend § 27.1529, see Proposal 8–21.

Proposals 8–65 and 8–66. Final action on Proposals 8–65 and 8–66 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8–67. For comments related to the proposal to add a new Appendix A to Part 27, see Proposal 8–25. Additional comments on this proposal, and on the proposal to add a new Appendix A to Part 29, are discussed here.

A commenter suggests that the wording of Appendix A be adjusted to take into account the differences between airplanes and rotorcraft. The FAA agrees. The appendix, as proposed, is generally equally applicable to airplanes and rotorcraft. However, several minor changes have been made to the appendix to provide for rotorcraft differences, primarily to cover rotors and differing fatigue standards.

A commenter objects to Appendix A, contending that: (1) The standards in current §§ 27.1529 and 29.1529 have been adequate in service, and (2) the proposal is excessive in scope and would create an undue burden. The FAA does not agree, having found that recommended maintenance procedures made available to operators/owners in the past were frequently inadequate in scope and content, providing no sound basis for maintaining the airworthiness of the rotorcraft. Appendix A, with the revisions and deletions discussed above and under Proposal 8–25, would not create an undue burden on the type certificate applicant.

One commenter expresses concern that certain inspection provisions in current § 91.217 might be applied to rotorcraft. The appendix contains no such requirement. Current § 91.217 applies only to certain airplanes.

Amendment to § 29.571. Because of the change to § 29.1529 adopted in this amendment, the reference to "§ 29.1529(a) (2)" in §§ 29.571(b), (c), (d) (1), (d) (3), and (e) is no longer appropriate. For consistency, the reference is changed to "§ A29.4 of Appendix A required by § 29.1529". This change was overlooked in Notice 75–31 (40 FR 29410; July

11, 1975). Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 2-154. For a discussion directly related to proposed new § 29.783(g), see the discussion under Proposal 8-35 for § 25.783(g) (Proposal 2-59 of Notice 75-10). Section 29.783(g) is adopted without substantive change.

Proposals 8-68 through 8-76 and 2-164. Final action on Proposals 8-68, 8-69, 8-70, 8-71, 8-72, 8-73, 8-74, 8-75, 8-76, and 2-164 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8-77. For comments related to the proposal to amend § 29.1529, see Proposal 8-21.

Proposals 8-78 and 8-79. Final action on Proposals 8-78 and 8-79 was taken in Airworthiness Review Program, Amendment No. 7: Airframe Amendments (43 FR 50578; October 30, 1978).

Proposal 8-80. For comments related to the proposal to add a new Appendix A to Part 29, see Proposals 8-25 and 8-67.

Proposal 8-81. No unfavorable comments were received on adding a new § 31.12 providing for standardized application of the airworthiness requirements for balloons. Accordingly § 31.12 is adopted without substantive change.

Proposal 8-82. No unfavorable comments were received on adding a new § 31.16 requiring that balloon empty weight be determined. Accordingly, § 31.16 is adopted without substantive change.

Proposal 8-83. No unfavorable comments were received on the intent of new § 31.17 which specifies performance in terms of an initial minimum rate of climb. However, a commenter raises the question whether compliance with proposed § 31.17(a) could be shown by testing at several altitudes and ambient temperatures and then extrapolating, by appropriate analysis, to the other values in the range for which approval is sought. The FAA considers that such extrapolation by analysis is an acceptable means of complying with proposed § 31.17(a), because the climb performance of balloons is based on fundamental principles and, therefore, can be predicted with sufficient accuracy from established test points.

The FAA notes that the 300 fpm climb rate requirement in § 31.17(a) was intended as a minimum standard. To make this clear, § 31.17 as adopted is revised by inserting the words "at least" before the number "300" in the first sentence of § 31.17(a).

Proposal 8-84. A commenter, referring to new § 31.19(a) governing critical uncontrolled descent, suggests that it would be difficult and time-consuming to determine which tear is the most critical single tear in the balloon envelope between tear stoppers. The FAA does not agree. An analysis, or a combination of test and analysis, would be an acceptable means of determining the most critical single tear. It would not be necessary to test each kind of tear. No other unfavorable comments were received on the proposal to add a new § 31.19. Accordingly, § 31.19 is adopted without substantive change.

Proposal 8-85. No unfavorable comments were received on the proposal to amend § 31.27(c) to be consistent with new § 31.19, Performance: Uncontrolled descent. Accordingly, the proposal is adopted without substantive change.

Proposal 8-86. No unfavorable comments were received on the proposal to amend § 31.65 updating the position light standards and expressing them in language consistent with related standards in other airworthiness parts. However, the FAA finds that the use of a cross reference to § 23.1397 as proposed in § 31.65(e) may be inconvenient for those governed by Part 31. Accordingly, § 31.65, as adopted, sets forth the chromaticity coordinates for aviation red and aviation white as currently prescribed in § 23.1397.

Proposal 8-87. No unfavorable comments were received on the proposal to amend § 31.71. However, after further consideration, the FAA concludes that proposed § 31.71(a) (2) is unnecessarily restrictive in that it would, in all cases, require marking the

equipment as to its identification, function, *and* operating limitations. Marking of the equipment as to its identification, function, *or* operating limitations, or any applicable combination of those factors is sufficient. This is also the language used in corresponding sections of other aircraft airworthiness regulations. Section 31.71, as adopted, is revised accordingly.

Proposal 8–88. No unfavorable comments were received on the proposal to amend § 31.81 to detail operating limitations and information. The FAA notes, however, that proposed § 31.81(b) is not clear as to which "operating limitations and other information necessary for safe operation" must be furnished. The FAA's intent, as stated in the explanation, is to require that the information established under § 31.81(a) be furnished. Section 31.81(b) is revised accordingly. Section 31.81(a) is adopted without substantive change.

Proposal 8–89. A commenter is concerned that proposed § 31.82 might require balloon manufacturers to prepare two overlapping maintenance documents—the maintenance manual currently supplied to operators/owners, and the proposed Instructions for Continued Airworthiness. The FAA notes that under §§ 31.82 and 21.50(b), balloon manufacturers would be required to prepare and furnish only the Instructions for Continued Airworthiness.

The FAA notes further (as discussed under Proposal 8–21) that the Instructions for Continued Airworthiness need not be finalized until delivery of the first balloon, while § 31.82, as proposed, could be interpreted to require that they be finalized before type certification. This point is clarified in § 31.82, as adopted, consistent with the corresponding requirement in Parts 23, 25, 27, and 29.

Proposal 8–90. No unfavorable comments were received on the proposal to amend § 31.85(b) (1). However, a commenter questions whether percentage figures on the required fuel quantity gauge would be acceptable. The FAA has determined that, in the particular case of balloons (for which the fuel quantity information is to an extent less important to safety than for other classes of aircraft), calibration of the fuel quantity gauge in percent of fuel cell capacity is an acceptable means of complying with the last sentence of § 31.85(b) (1). Section 31.85(b) (1), as adopted, is revised to make this clear.

Proposal 8–91. No adverse comments were received on the proposal to add a new Appendix A to Part 31. However, comments received on the proposals to add a similar appendix to Parts 23, 25, 27, and 29 (Proposal 8–25), were equally valid with respect to this proposal. Accordingly, Appendix A to Part 31, as adopted, is revised in substance as applicable.

Regarding the proposals to require generalized repair data in the Instructions for Continued Airworthiness, it is more appropriate, as well as necessary and practicable, to include specific instructions for repair of the key elements of a balloon—the balloon envelope and its basket or trapeze. This information is incorporated in paragraph A31.3(i) as revised.

Proposal 8–92. A commenter objects to § 33.4 insofar as it would require completion of the Instructions for Continued Airworthiness before the type certificate is issued, contending that a significant portion of the data and other material called for is typically not compiled until 6 months or longer after type certification. The commenter suggests that manufacturers be allowed to prepare and make available the Instructions for Continued Airworthiness before the first aircraft equipped with the subject engine is put into service, which, it claims, is the earliest such instructions would be needed. Requiring the engine manufacturer to complete the Instructions for Continued Airworthiness before the type certificate is issued would constitute an unnecessary burden. However, the FAA considers that they must be made available, and furnished, upon delivery of the first engine on an aircraft or issuance of a standard certificate of airworthiness for the aircraft, whichever occurs later. This would be consistent with corresponding requirements proposed for other products. See Proposals 8–5 and 8–21. Section 33.4 is revised and adopted accordingly.

Proposal 8-93. A commenter observes that § 33.5 requires that the instruction manual for installing and operating the engine be "approved," whereas proposed § 33.4 requires that the Instructions for Continued Airworthiness be "acceptable to the Administrator," and recommends that the latter term be used for consistency. The FAA notes that the term "acceptable to the Administrator" is widely used in Part 43 in connection with maintenance requirements, whereas the term "approved" is more frequently used in FAR Parts containing installation and operating requirements. Considering the FAR as a whole, the FAA does not agree that such consistency is essential. Accordingly, § 33.5 is adopted as proposed.

Proposal 8-94. Several commenters object to proposed §§ 33.6(e) and (f), and to proposed §§ 23.1521(a) and 25.1521(a) (Proposals 8-20 and 8-56, respectively) on the grounds that the use of rated takeoff power or thrust for 10 minutes with one engine inoperative should not be limited to "the extent that the utilization is necessary for the airplane to avoid, without necessitating turning maneuvers, obstacles beneath the flight path intended for the airplane prior to the loss of the engine." In light of these comments and after further review, the FAA concludes that these proposals are premature and they are withdrawn.

In addition, the proposed transfer of the definitions for rated power and thrust from § 1.1 to proposed new § 33.6, Proposal 8-1, is withdrawn since the transfer may cause confusion in the administration of the aircraft certification requirements. Accordingly, Proposals 8-1, 8-20, 8-56, and 8-94 are withdrawn.

Proposal 8-95. For discussion of proposed § 33.19(b) see the discussion under Proposal 8-103. Revised § 33.19 is adopted without substantive change.

Amendment to §§ 33.55(c), 33.57(b), 33.93(b), and 33.99(b). Because of the deletion of §§ 33.5(c), (d), and (e), and the addition of a new § 33.4, the reference to "§ 33.5" in §§ 33.55(c), 33.57(b), 33.93(b), and 33.99(b) is no longer appropriate. For consistency, the reference is "§ 33.4." This change was inadvertently overlooked and was not proposed in Notice 75-31 (40 FR 29410; July 11, 1975). This editorial change corrects that discrepancy. Since this amendment is clarifying in nature and does not impose a burden on the public, notice and public procedure are unnecessary and good cause exists for adopting this amendment.

Proposal 8-97. A commenter recommends that § A33.3(a) (6) of Appendix A to Part 33 be revised by adding the words "requiring periodic attention" so as to make it clear that scheduling information is required solely for parts that require such attention. The language in this section is adequate. For parts not needing periodic attention, the applicant has only to state that parts not scheduled need not be serviced.

A commenter infers incorrectly that proposed §§ 43.16 and 91.163(c) apply only to rotorcraft. These regulations with the revision proposed also affect other classes of aircraft, as well as engines and propellers.

Some comments received on the proposed appendices for Parts 23, 25, 27, and 29 (Proposal 8-25) were equally valid with respect to proposed Appendix A to both Parts 33 and 35. Accordingly, the appendices to Parts 33 and 35 are revised in substance as applicable.

Proposal 8-98. For a discussion related to proposed § 35.3 see Proposal 8-93. A commenter observes that § 35.3 requires that the instruction manual for installing and operating the propeller be "approved," whereas § 35.4 requires that the Instructions for Continued Airworthiness be "acceptable to the Administrator," and recommends that the latter term be used for consistency. The FAA notes that the term "acceptable to the Administrator" is widely used in Part 43 in connection with maintenance requirements, while the term "approved" is more frequently used in FAR parts containing installation and operating requirements. Considering the FAR as a whole, the FAA does not agree that consistency is required in this instance. Accordingly, § 35.3 is adopted as proposed.

339-942 O - 81 - 5

Proposal 8-99. In response to the concern of a commenter representing a number of Part 121 operators, the FAA notes that there is no requirement that any operator/owner use the Instructions for Continued Airworthiness referred to in proposed § 35.4. The new §§ 43.13(a), 43.16, and 91.163(c) allow the use of other methods. In particular, the use of maintenance manuals and continuous airworthiness maintenance programs developed under Parts 121, 123, 127, and 135, or an inspection program approved under § 91.217(e) would be acceptable alternatives to the Airworthiness Limitations section. This commenter suggests that language be added to proposed § 35.4 to make it clear that such alternatives may be used. The FAA agrees. The language in §§ 43.16 and 91.163(c) is revised accordingly.

Consistent with the discussion on proposed § 33.4 dealing with engines (see Proposal 8-92), the FAA finds that requiring the propeller manufacturer to complete the Instructions for Continued Airworthiness before the type certificate is issued would constitute an unnecessary burden. Accordingly, § 35.4 as adopted, requires that those instructions be made available and furnished upon delivery of the first aircraft with the propeller installed, or upon issuance of a standard certificate of airworthiness for an aircraft with the propeller installed, whichever occurs later.

Proposal 8-100. No unfavorable comments were received on the proposal to amend § 35.5 to more clearly indicate the basis for operating limitations and where they are listed. Accordingly, § 35.5 is adopted without substantive change.

Proposal 8-101. No unfavorable comments were received on the proposal to amend § 35.23 to provide an extreme low pitch indication. Accordingly, § 35.23 is adopted without substantive change.

Proposal 8-102. A commenter does not concur with the proposal to revise § 35.37 to require evaluation of metallic hubs and blades, stating that the words "must", "all", and "reasonably foreseeable" in the second sentence imply responsibility beyond current knowledge and the state of the art. The FAA does not agree. These terms are used in the current rule and the current state of the art defines the limits of the provision.

The same commenter recommends that § 35.37 be revised to apply to consideration of "normal and reasonably foreseeable load patterns," to account for the fact that only normal operations will or should be considered. The FAA does not agree. Load patterns which are reasonably foreseeable are critical and should be investigated even if they are not normal.

The same commenter also indicates that the third sentence should be revised to eliminate the term "reduction factors," since reduction factors are identified with only one particular method of presentation. The FAA agrees and the section is revised accordingly. This commenter finally states that the explanation implies that manufacturers have not taken permissible damage and material variation into account. This implication is not intended. It is the FAA's view that the fatigue evaluation should consider the occurrence of typical service damage and variation in material properties and the rule would provide for such an evaluation.

Another commenter suggests that the section be revised by adding certain technical requirements that are related to infinite component life. It is not necessary to specify requirements concerning infinite component life, since they are considered a normal part of propeller fatigue testing.

Section 35.37 is adopted as revised.

Proposal 8-103. A commenter objects to the proposal to add a new § 35.42 to define durability requirements for propeller blade pitch control system components, stating that the term "bench tests" in §§ 35.42(a) and (b) is too descriptive and restrictive. The FAA agrees that a reference to "bench tests" may be too restrictive. Other test methods may be equally acceptable in providing the necessary data. Accordingly, §§ 35.42(a) and (b) are revised to eliminate the specific reference to "bench."

The commenter also suggests that the words "in frequency and amplitude" be eliminated from § 35.42(a) since the words "cyclic testing" are fully descriptive. The FAA believes that these words are needed to prescribe key elements in the required test.

The commenter further suggests that the proposed testing to the equivalent of 1,000 hours of propeller operation is too restrictive in the case of a propeller with an overhaul period of less than 1,000 hours. The FAA considers the specific testing to be the minimum necessary to provide an acceptable safety level in service. The rule does not, however, prevent the selection of overhaul intervals of less than 1,000 hours.

Finally, the commenter suggests that the rule should permit an alternate of acceptance based upon service experience. The FAA recognizes that service experience can provide a statistical basis for determining component reliability. Its applicability, however, may vary according to such considerations as type of operation, the nature of the article under consideration, the degree of similarity between the reference article and the certification article, and the completeness of service records. Since it is dependent on such a variety of factors, the FAA does not agree that a specific alternative based on service experience should be included.

The proposal to add a new § 35.42, therefore, is adopted with the change discussed below. No adverse comments were received on the related proposed revisions to §§ 23.905, 25.905, and 33.19 to add the reference to new § 35.42, and the revisions are adopted.

Proposal 8–104. For comments related to the proposal to add a new Appendix A to Part 35, see Proposals 8–25 and 8–97.

A commenter objects to proposed § A35.1(c) of the appendix because the propeller owner (aircraft operator) would be wastefully provided with instructions and data that the propeller owner has no authority to use. The FAA does not agree. The Instructions for Continued Airworthiness must be furnished to the aircraft owner/operator who is the person responsible for maintaining the aircraft (including the propeller). The owner/operator may not be authorized to maintain the propeller, but the owner/operator can place the instructions in the hands of persons who are authorized.

The new Appendix A to Part 35, as adopted, is revised in accordance with comments discussed in Proposal 8–97.

Proposal 8–105. The proposed revision of § 43.9(a)(4) is being deferred for consideration in a forthcoming notice of proposed rule making of the Operations Review Program.

Proposal 8–106. A commenter representing a number of scheduled air carriers is concerned that the use of maintenance manuals and continued airworthiness programs developed under current § 121.133 and Subpart L of Part 121 (generally via Maintenance Review Board procedures), or under similar provisions of Parts 127 and 135, might not be acceptable as "other methods, techniques, and practices" under the terms of proposed § 43.13(a). This commenter suggests that language be added to proposed § 43.13(a) to make this clear. The FAA does not agree. The proposed language states that the use of such manuals and continued airworthiness programs is acceptable.

Proposal 8–107. A commenter representing a number of scheduled air carriers recommends that the Airworthiness Limitations section referred to in proposed § 43.16 include life limitations only and not inspections or other maintenance items. As discussed under Proposal 8–3, the FAA does not agree.

A commenter suggests that the words "or other methods, techniques; and practices acceptable to the Administrator" be added at the end of proposed § 43.16 to make it consistent with proposed § 43.13(a). The Airworthiness Limitations section contains specific mandatory replacement times and inspection intervals (with related procedures) that must be complied with, unless it can be shown by an operator with an approved maintenance program that these times are inappropriate for his operation. The use of alternatives not covered in the Airworthiness Limitations section would be allowed if

approved by the Administrator. Section 43.16 is revised to specifically state the alternatives to compliance with the Airworthiness Limitations section.

Proposal 8-108. No unfavorable comments were received on the proposal to amend § 45.11 to qualify, with respect to manned free balloons, the requirements in § 45.11(a) that deal with the location of the identification plate. Accordingly, the proposal is adopted without substantive change.

Proposal 8-109. No unfavorable comments were received on the proposal to amend § 45.13 to correctly reference §§ 45.11(a) and (b) with regard to identification plate requirements. Accordingly, the proposal is adopted without substantive change.

Proposal 8-110. A commenter representing a number of scheduled air carriers recommends that the words "inspection interval, or related procedure" be deleted from proposed § 45.14. The supporting rationale is the same as submitted by this commenter concerning Proposal 8-3 to amend § 21.31(c). As discussed under Proposal 8-3, the FAA disagrees.

The language in § 45.14 covers rotorcraft as well as airplanes, balloons, engines, and propellers. To make this clear, the word "Rotorcraft" is changed to "Manufacturer's".

Two commenters object to proposed § 45.14 on the grounds that it would be impracticable to mark small parts with a part and serial number. The FAA is not aware that the marking of small parts under current § 45.14 has presented a problem. In any event, the rule allows markings that are equivalent to part and serial numbers, such as symbols enabling the identification of the part as one for which a replacement time, inspection interval, or related procedure is specified in an Airworthiness Limitations section. Identification of such parts is clearly essential for safety. Accordingly, § 45.14 is adopted as revised.

Proposal 8-111. A commenter representing a number of scheduled air carriers recommends that the words "inspection interval, or related procedure" be deleted from proposed § 91.163(c). The supporting rationale is the same as that submitted by this commenter concerning Proposal 8-3 to amend § 21.31(c). As discussed under Proposal 8-3, the FAA disagrees. However, § 91.163(c) is revised to specifically identify the acceptable alternatives to compliance with the "Airworthiness Limitations" section.

The language in proposed § 91.163(c) covers rotorcraft as well as airplanes, balloons, engines, and propellers. To make this clear, the word "Rotorcraft" in § 91.163(c) has been changed to "Manufacturer's", and a statement has been added that operations specifications approved by the Administrator may be used in lieu of the Instructions for Continued Airworthiness. Section 91.163(c) is adopted as revised.

Proposal 8-112. No unfavorable comment was received on the proposal to amend § 91.165 to clarify maintenance personnel entries in maintenance records. Accordingly, the proposal is adopted without substantive change.

Proposal 8-113. Several commenters object to §§ 91.173(a)(2)(i) and (iii). A commenter states that adoption of the proposal would result in an inconsistency between § 91.173 and § 121.380, which contains the recordkeeping requirements for aircraft maintained under Part 121. The commenter also states that this inconsistency would cause great difficulty and economic hardship whenever an aircraft is sold by a Part 121 operator to a Part 91 operator and the Part 91 aircraft is maintained by a Part 121 operator under its repair station certificate. According to the commenter, the economic hardship would occur to both the Part 91 operator and the repair station. The same commenter contends that reliability information accumulated in recent years on transport category airplanes shows that there is no need for individualized total time records on equipment and components. Another commenter states that proposed requirements would result in large increases in maintenance costs for Part 91 operators and that only those components that are life-limited should have to carry total times.

The FAA concludes, however, that revision of § 91.173(a)(2)(i) would contribute significantly to safety with little burden on those affected. The currently prescribed record of total time in service for the airframe does not generally apply to the aircraft's engines

or propellers, since these components are frequently overhauled (or replaced) at different times. As a practical matter, it is known that operators of such aircraft normally keep records from which the total time in service of engines and propellers can be derived. Therefore, the FAA does not agree that the requirement to keep total times on engines and propellers would be a hardship and burden upon the operators. Accordingly, § 91.173(a) (2) (i) is adopted without change.

In light of the comment on proposed § 91.173(a) (2) (iii), the FAA has given further review of the proposal and has concluded that existing requirements satisfy the objective of the proposal. Accordingly proposed § 91.173(a) (2) (iii) is withdrawn.

The reporting and recordkeeping requirements contained in § 91.173 have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Proposal 8–114. Several commenters agree with the intent of proposed § 91.193(c) (4) but suggest changes. A commenter suggests that the proposed installation instructions for hand fire extinguishers would be more appropriately placed in the type certification rules. The FAA does not agree. New type certification rules do not apply to aircraft already in service.

A commenter suggests that the words "unless obvious" be added to clarify when the hand fire extinguisher stowage provisions must be properly identified. The FAA agrees. Proposed § 91.193(c) (4) is revised and adopted accordingly.

Proposal 8–115. One commenter objects to the proposal to revise § 91.197(a) to require passenger information signs to meet the requirements of § 25.791. The commenter states that it is unnecessary, in many small general aviation aircraft operating under Subpart D of Part 91, to have such signs just for the sake of uniformity. The commenter also states that "nonstandard" signs now in use are wholly adequate to meet the needs of the type of operation. Finally, the commenter points out that installation costs for aircraft not currently having signs would be high and the pilot could just as easily announce the information as he could activate the signs.

Based on these comments and considering the type of operation involved, the FAA finds that the benefits associated with the proposal do not warrant its adoption. The proposal to revise § 91.197(a) is withdrawn.

Proposals 8–116, 8–117, 8–118, and 8–119. Final action on Proposals 8–116, 8–117, 8–118, and 8–119 was taken in Airworthiness Review Program, Amendment No. 8: Cabin Safety and Flight Attendant Amendments (45 FR 7750; February 4, 1980).

Proposal 8–120. In light of the need to conduct further testing of protective breathing equipment, the FAA withdraws its proposal to amend § 121.337, which will be addressed in an upcoming notice of proposed rule making.

ADOPTION OF THE AMENDMENT

Accordingly, Parts 11, 21, 23, 25, 27, 29, 31, 33, 35, 43, 45, and 91 of the Federal Aviation Regulations are amended, effective October 14, 1980.

(Sections 313(a), 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C.1354(a), 1421, 1423, and 1424)); and Section 6(c) of the Department of Transportation Act (49 U.S.C.1655(c)))

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the individual and address listed in the "For Further Information Contact" paragraph.

Amendment 11-21
Procedural Rules

Adopted: December 2, 1980 Effective: December 8, 1980

(Published in 45 FR 80815, December 8, 1980)

SUMMARY: This amendment to Part 11 of the Federal Aviation Regulations (FARs) will permit a more expeditious and uniform issuance of Airworthiness Directives (ADs) for certain domestic and foreign manufactured products. The amendment reflects the organizational changes of the "lead region" concept set forth in a recent Administrator's Order.

FOR FURTHER INFORMATION CONTACT: Mr. James Zahringer, Technical Standards Branch (AWS-110), Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 426-8374.

SUPPLEMENTARY INFORMATION: Since these amendments affect only internal procedures of the Federal Aviation Administration and impose no additional burden on any person, notice and public procedure are unnecessary and good cause exists for making them effective in less than 30 days. However, the FAA invites interested persons to submit such written data, views, or arguments as they may desire regarding these amendments. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-204, 800 Independence Avenue S.W., Washington, D.C. 20591. All communications received on or before the closing date (February 9, 1981) for comments will be considered by the Administrator and these amendments may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

The current procedures for issuing Airworthiness Directives (ADs) were established by Amendment 11-6 to Part 11 of the FAR. Under FAR Part 11, ADs are issued by domestic FAA Regional Offices for products for which the office has certification responsibility, i.e., the product was issued a type certificate by that office or it was manufactured within the jurisdiction of that office. In addition, the FAA Washington Headquarters office issues ADs for products under the purview of FAA Regional Offices located in Europe, Alaska, and Hawaii. The initial reason for this procedure was that these offices did not have General Counsel representation for the necessary legal review of proposed ADs.

The FAA was criticized for the inconsistency in the various regions' application of AD policies and procedures which resulted from operation under Amendment 11-6. By Order 8000.44A, dated May 30, 1980, the Administrator implemented the lead region concept, in which certain FAA Regional Offices were designated as certificating regions and "lead regions" to perform regional and national aircraft certification program functions that would otherwise be accomplished by more than one region or in the FAA Washington Headquarters. The Order responds to the complaint of inconsistency, and reflects the Administrator's stated goals of greater agency efficiency and uniformity in developing and updating regulations and minimum standards, issuing ADs, and resolving precedent-setting type certification issues. As stated in the Order, improvement in these areas can best be realized through a utilization of regional engineering and manufacturing staff elements having nationally recognized areas of special expertise. For example, certification experience with transport category airplanes of over 75,000 pounds certificated takeoff weight exists almost entirely in the Western and Northwest Regions. The workload for this type of airplane has been shifted from the Western Region to the Northwest Region, and the Order has centralized the primary certification responsibility for such airplanes in the Northwest Region. Thus, certification of all airplanes over 75,000 pounds certificated takeoff weight manufactured in any region (such as the DC-10 and L1011, which are manufactured in California), and all transports which are foreign manufactured, regardless of weight, will be handled by the Northwest Region. Certification authority includes issuing ADs for these aircraft. The Northwest Region has also been designated as the "lead region" for all FAR Part 25 aircraft, making it responsible for advising and assisting other certificating regions on all type certification projects under Part 25.

Similarly, ADs for foreign manufactured products will be issued by the region having lead region responsibility over the type of product involved. Exceptions to this are ADs issued for Canadian manufactured helicopters and small airplanes, which will be issued by the FAA Eastern Region. Under Order 8000.44A, therefore, the FAA Washington Headquarters will no longer issue ADs for most foreign manufactured products, although it will retain the authority to issue ADs on its own initiative. This amendment to Part 11 implements this transfer.

Under the current rule, the Alaskan and Pacific regions do not have authority to issue ADs. Most of the products which these regions are involved with are foreign-manufactured, and under Order 8000.44A, ADs for these foreign products will be issued by the appropriate lead regions. However, the Alaskan and Pacific regions will have the authority to issue ADs for domestic products for which they have certification authority.

Since this amendment concerns internal procedures of the FAA, it will have no impact on the public, and no regulatory evaluation is required under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

THE AMENDMENTS

Accordingly, Subpart E of Part 11 of the Federal Aviation Regulations (14 CFR Part 11) is amended effective December 8, 1980.

Sections 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

The Federal Aviation Administration has determined that this document involves a regulation that is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, since this document imposes no additional burden on any person, the Federal Aviation Administration has determined that the economic impact is so minimal that no economic evaluation is required.

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Part 11—General Rule-Making Procedures

Subpart A—General

§ 11.1 Applicability.

This Part applies to the issue, amendment, and repeal of—

(a) Rules and orders for airspace assignment and use issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and

(b) Other substantive rules, including those applicable to a class of persons, and those addressed to and served on named persons whenever the Administrator decides to use public rule-making procedures in such a case.

§ 11.11 Docket.

Official FAA records relating to rule-making actions, including (a) proposals, (b) notices of proposed rule making, (c) written material received in response to notices, (d) petitions for rule making and exemptions, (e) written material received in response to summaries of petitions for rule making and exemptions, (f) petitions for rehearing or reconsideration, (g) petitions for modification or revocation, (h) notices denying petitions for rule making, (i) notices granting or denying exemptions, (j) summaries required to be published under § 11.27, [(k) special conditions required, as prescribed under §§ 21.16 or 21.101 (b) (2), (l) written material received in response to published special conditions,] [(m)] reports of proceedings conducted under § 11.47, [(n)] notices denying proposals, and [(o)] final rules or orders are maintained in current docket form in the Office of the Chief Counsel. A public docket relating to rule-making actions taken by Regional Directors under Subparts D and E of this Part is maintained in the office of the Regional Counsel. A public docket relating to rule-making actions taken by each Regional Director on petitions for exemption filed under Part 139 of this chapter is maintained in the office of the Regional Counsel for that Region. Any interested person may examine any docketed material at that office, at any time after the docket is established, except material that is ordered withheld from the public under section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504), and may obtain a photostatic or duplicate copy of it upon paying the cost of the copy.

§ 11.13 [Reserved]

§ 11.15 Emergency exemptions.

If, as a result of enemy attack on the United States, communication with Washington headquarters of FAA is or may be disrupted or materially impaired, petitions for exemptions from any rule issued under Titles III or VI of the Federal Aviation Act of 1958 (air safety rules and air traffic and airspace rules) may also be filed at the nearest FAA Regional Office, Area Office, air traffic control facility or office, Air Carrier District Office, General Aviation District Office, International Field Office, or FAA Representative in the Europe, Africa, and Middle East Region or in the Pacific Region. The procedural requirements of §§ 11.53, 11.71, and 11.91, and the publication and comment procedures of § 11.27 need not be followed. Under these emergency conditions, the FAA inspectors or officers in charge of these offices may grant, in whole or in part and subject to reasonable conditions or limitations, such exemptions or may deny petitions for such exemptions; may issue such exemptions to named persons or in blanket form on their own initiative; and may limit or terminate exemptions so issued by them or by offices whose jurisdiction they may have assumed. Exemptions issued under these circumstances are at all times subject to modification and termination by the Director or Acting Director or officer in charge of the Region concerned, subject to ultimate action by the Director or Acting Director of the Service concerned.

Subpart B—Rules Other Than Airspace Assignment and Use

§ 11.21 Scope.

(a) This subpart applies to substantive rules, other than those relating to airspace assignment and use.

(b) Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, the FAA issues notices of proposed rule making and allows interested persons to participate in rulemaking proceedings involving a substantive rule.

(c) Unless the Administrator determines that notice and rule-making procedures are to be followed, interpretive rules, general statements of policy, and rules of FAA organization, procedure, or practice are prescribed as final without notice or rule-making procedures.

(d) Whenever the Administrator so determines, the procedures prescribed in this subpart apply to exempting persons and classes from the requirements of a substantive rule.

§ 11.23 Initiating rule-making procedures.

The Administrator initiates rule-making procedures upon his own motion. However, in doing so, he considers the recommendations of other agencies of the United States and the petitions of other interested persons.

§ 11.25 Petitions for rule making or exemptions.

(a) Any interested person may petition the Administrator to issue, amend, or repeal a rule whether or not it is a substantive rule within the meaning of § 11.21, or for a temporary or permanent exemption from any rule issued by the Federal Aviation Administration under statutory authority.

(b) Each petition filed under this section must—

(1) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 120 days before the proposed effective date of the exemption;

(2) Be submitted in duplicate—

[(i) To the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport, in the case of any petition for exemption filed under Part 139 of this chapter;

[(ii) To the Director having Airworthiness Directive responsibility for the product involved in the case of petitions filed in accordance with Subpart D of this Part.

[(iii) To the Federal Air Surgeon (AAM–1), Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, in the case of a petition for exemption filed under Part 67 of this chapter; and

[(iv) To the Rules Docket (AGC–204), Federal Aviation Administration, 800 Independence Avenue, Washington, D.C. 20591, in all other cases;]

(3) Set forth the text or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(4) Explain the interests of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of each aircraft or person to be covered by the exemption; and

(5) Contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the granting of the request would be in the public interest and, if appropriate, in the case of an exemption, the reason why the exemption would not adversely affect safety or the action to be taken by the petitioner to provide a level of safety equal to that provided by the rule from which the exemption is sought.

(c) A petition for rule making filed under this section must contain a summary, which may be published in the FEDERAL REGISTER as provided in § 11.27(b), which includes—

(1) A brief description of the general nature of the rule requested; and

(2) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures.

(d) A petition for exemption filed under this section must contain a summary, which may be published in the FEDERAL REGISTER as provided in § 11.27(c), which includes—

[(1) A citation of each rule from which relief is requested; and

[(2) A brief description of the general nature of the relief requested.

[§ 11.27 Action on petitions for rule making or exemptions.

[(a) *General.* Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a petition, filed under § 11.25, before its disposition by the FAA.

[(b) *Publication of summary of petition for rule making.* After receipt of a petition for rule making, except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the petition in the FEDERAL REGISTER which includes—

[(1) The docket number of the petition;

[(2) The name of the petitioner;

[(3) A brief description of the general nature of the rule requested;

[(4) A brief description of the pertinent reasons presented in the petition for instituting rule-making procedures; and

[(5) In appropriate situations, a list of questions to assist the FAA in obtaining comment on the petition.

[Comments on the petition for rule making must be filed, in triplicate, within 60 days after the summary is published in the FEDERAL REGISTER unless the Administrator, for good cause, finds a different time period appropriate. Timely comments received will be considered by the Administrator before taking action on the petition.

[(c) *Publication of summary of petition for exemption.* After receipt of a petition for exemption, except as otherwise provided in paragraphs (i) and (j) of this section, the FAA publishes a summary of the petition in the FEDERAL REGISTER which includes—

[(1) The docket number of the petition;

[(2) The name of the petitioner;

[(3) A citation of each rule from which relief is requested; and

[(4) A brief description of the general nature of the relief requested.

[Comments on the petition for exemption must be filed, in triplicate, within 20 days after the summary is published in the FEDERAL REGISTER unless the Administrator, for good cause, finds a different time period appropriate. Timely comments received will be considered by the Administrator before taking action on the petition.

[(d) *Instituting rule-making procedures based on a petition.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for rule making, that the petition discloses adequate reasons, the FAA institutes rule-making procedures.

[(e) *Grant of petition for exemption—summary.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition is in the public interest, the Administrator grants the exemption and, except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the grant of the petition for exemption in the FEDERAL REGISTER. A summary of a grant of a petition for exemption includes—

[(1) The docket number of the petition;

[(2) The name of the petitioner;

[(3) A citation of each rule from which relief is requested;

[(4) A brief description of the general nature of the relief granted; and

[(5) The disposition of the petition.

[(f) *Denial of petition for rule making.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for rule making, that the petition does not justify instituting rule-making procedures, the FAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the denial of the petition for rule making in the FEDERAL REGISTER in accordance with paragraph (h) of this section.

(g) *Denial of petition for exemption.* If the Administrator determines, after consideration of any comments received in response to a summary of a petition for exemption, that the petition does not justify granting the requested exemption, the FAA notifies the petitioner to that effect. Except as otherwise provided in paragraph (i) of this section, the FAA publishes a summary of the denial of the petition for exemption in the FEDERAL REGISTER in accordance with paragraph (h) of this section.

(h) *Summary of denial of petition for rule making or exemption.* A summary of a denial of a petition for rule making or exemption includes—

(1) The docket number of the petition;

(2) The name of the petitioner;

(3) In the case of a denial of a petition for exemption, a citation of each rule from which relief is requested;

(4) A brief description of the general nature of the rule or relief requested; and

(5) The disposition of the petition.

(i) *General exceptions.* The publication and comment procedures of paragraphs (b) through (h) of this section do not apply to the following:

(1) To petitions for rule making or exemptions processed under § 11.83 of this Part.

(2) To petitions for exemptions from the requirements of Part 67 of this chapter.

(j) *Exceptions to publication of summary of petition for exemption.* The publication and comment procedures of paragraph (c) of this section do not apply to the following:

(1) To petitions for emergency exemptions processed under § 11.15 of this Part.

(2) To petitions for exemptions processed under Part 139 of this chapter.

(3) Whenever the head of the Office or Service concerned, subject to the approval of the Chief Counsel with respect to form and legality, finds for good cause shown in a petition for exemption that action on the petition should not be delayed by the publication and comment procedures. Factors that may be considered in determining whether good cause exists, include—

(i) Whether a grant of exemption would set a precedent or whether the petition for exemption and the reasons presented in it are identical to exemptions previously granted;

(ii) Whether the delay in acting on the petition for exemption that would result from publication would be detrimental to the petitioner; and

(iii) Whether petitioner acted in a timely manner in filing the petition for exemption.

(k) *Status of petition for rule making.* Within 120 days after publication in the FEDERAL REGISTER of a summary of petition for rule making and every 120 days thereafter, unless sooner denied under § 11.51 or issued as a notice of proposed rule making under § 11.65, the Office or Service concerned shall advise petitioner in writing of the status of the petition.

(l) *Additional specific provisions.* Specific provisions covering actions on petitions are set forth in Subpart C of the Part.

[§ 11.28 Action on special conditions.

[(a) *General.* Except for the publication and comment procedures provided for in this section, no public hearing, argument, or other formal proceeding is held directly on a special condition established by the Administrator.

[(b) *Procedures.* This subpart and Subpart C apply to the issue, amendment, and repeal of special conditions under Part 21. In addition to the information required by § 11.29(b), each notice will include—

[(1) The name and address of the applicant;

[(2) The model designation and a summary description of the affected product;

[(3) The applicable type design approval regulations designated in accordance with § 21.17 or § 21.101 of Part 21; and

[(4) A summary description of the novel or unusual design features that make the issue or amendment of special conditions necessary.]

§ 11.29 Notice of proposed rule making.

(a) Each general notice of proposed rule making is published in the FEDERAL REGISTER, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the FEDERAL REGISTER or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted and the required number of copies; and

(5) A statement of how and to what extent interested persons may participate in the proceeding, as prescribed by §§ 11.31 and 11.33.

(c) A petition for extension of the time for comments must be submitted in duplicate not later than two days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows a substantive interest in the proposed rule and good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted it is published in the FEDERAL REGISTER.

§ 11.31 Participation of interested persons in rule-making procedures.

(a) Each interested person is entitled to participate in rule-making proceedings by submitting written information, views, or arguments. In addition, he may comment on the original information, views, and arguments submitted by other persons, if, after receiving them, the Administrator considers it desirable.

(b) In any appropriate case, the Administrator also allows interested persons to participate in the rule-making procedures described in § 11.33.

§ 11.33 Additional rule-making proceedings.

(a) The rule-making procedure also includes any further procedural steps that best serve the purposes of a particular proceeding. For example, interested persons may be allowed to make oral arguments, participate in conferences between the Administrator or his representative and interested persons and organizations, appear at informal hearings presided over by a designated FAA official at which a stenographic transcript is made, or participate in any other procedure whenever it is desirable and appropriate to assure informed administrative action and adequate protection of private interests.

(b) Any appropriate combination of the procedures described in paragraph (a) of this section may be used in addition to the basic procedure of allowing interested persons to participate in rule-making proceedings by submitting written information, views, or arguments.

§ 11.35 Participation by Civil Aeronautics Board in rule-making proceedings.

(a) Under section 1001 of the Federal Aviation Act of 1958 (49 U.S.C. 1481), the Civil Aeronautics Board may appear and participate as an interested party in any proceeding conducted by the Administrator under Title III of that Act, and in any proceeding under Title VI of that Act that cannot be appealed to the National Transportation Safety Board.

(b) To indicate its intention to participate in any proceeding described in paragraph (a) of this section, the Civil Aeronautics Board may file written information, views, or arguments in response to a notice of proposed rule making issued by the Administrator. The Civil Aeronautics Board is entitled to the procedural privileges accorded other parties and is equally free to participate.

§ 11.37 Requests for informal appearances.

(a) Upon his request, any interested person may appear informally before an appropriate official of the FAA to present, adjust, or determine a question or controversy relating to a rule-making function of the FAA.

(b) A request for an appearance under this section must be sent in writing to the Federal Aviation Administration, Washington, D.C. 20591 or to the Regional or District Office nearest to the person making the request.

Subpart C—Processing of Rules Other Than Airworthiness Directives and Airspace Assignment and Use

§ 11.41 Scope.

(a) This subpart prescribes the supplemental procedures to be followed by the Offices and Services of the FAA in rule-making proceedings and in granting or denying exemptions from rules. It also designates the Office or Service that is authorized to act for the Administrator in connection with those proceedings and exemptions. Any authority conferred by this subpart on the head of any Office or Service is also conferred on the Associate Administrator (if any) who exercises executive direction over that official.

(b) This subpart applies to rule-making procedures other than for Airworthiness Directives and rules relating to Airspace Assignment and Use.

(c) For the purpose of this subpart—

(1) The words "Office or Service" include the Aeronautical Center and the National Aviation Facilities Experimental Center, and include Regional Directors with respect to petitions for exemptions from the requirements of Part 139 of this chapter; and

(2) "Chief Counsel" means—

(i) The Chief Counsel;

(ii) A Regional Counsel with respect to petitions for exemptions from the requirements of Part 139 of this chapter;

(iii) The Assistant Chief Counsel for Regulations and Enforcement for all other exemptions processed under this subpart; or

(iv) Any person to whom the Chief Counsel has delegated authority in the matter concerned.

§ 11.43 Processing of petitions for rule making or exemption from parts of this chapter.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in § 11.27, to the Office or Service having substantive responsibility for the subject involved.

§ 11.45 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, issue the notice provided for in § 11.29. In addition, he may grant or deny petitions for extension of the time for comments on the notice, filed under § 11.29(c).

§ 11.47 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice. All timely comments are considered before final action on the rule-making proposal is taken. Late filed comments are considered so far as possible without incurring expense or delay.

(b) Whenever the head of the Office or Service concerned determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

§ 11.49 Adoption of final rules.

(a) After the Office or Service concerned has completed its analysis and evaluation of the information, views, and arguments submitted with respect to a proposed rule, representatives of that Office or Service and the Office of the Chief Counsel prepare an appropriate rule, subject to the approval of the Chief Counsel as to form and legality. Except as provided in paragraph (b) of this section, the rule is then submitted, with the recommendations of the head of the Office or Service concerned and the Chief Counsel, to the Administrator for consideration. If a rule is adopted, it is published in the FEDERAL REGISTER.

(b) Final authority to issue, amend, and repeal—

(1) An appendix to a part is delegated to the head of the Office or Service concerned;

(2) Minimum en route IFR altitudes and associated flight data under Part 95 of this chapter, and standard instrument approach procedures under Part 97 of this chapter is delegated to the Chief, Aircraft Programs Division, Office of Flight Operations [; and

[(3) Special conditions under Part 21 of this chapter is delegated to the Director of Airworthiness.]

§ 11.51 Denial of petition for rule making.

Whenever it is determined that a petition for rule making filed under § 11.25 should be denied, the Office or Service concerned prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice of denial for the Administrator's signature.

§ 11.53 Grant or denial of exemption.

(a) The head of the Office or Service concerned may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption. However, if the head of the Office or Service concerned finds that the grant or denial involves a technical or policy determination that should be made by the Administrator, he refers the petition and his recommendations and those of the Chief Counsel to the Administrator for final action.

(b) Whenever a petition is granted or denied under this section, the Office or Service concerned prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

(c) [Deleted]

§ 11.55 Reconsideration of a denial or grant of exemption.

(a) Except as provided in paragraph (c) of this section, if a petition for exemption is denied, the petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 30 days after the petitioner is notified of the denial of the exemption.

(b) If a petition for exemption is granted, a person other than the initial petitioner may file a petition for reconsideration with the Administrator. The petition must be filed, in duplicate, within 45 days after the grant of exemption is issued.

(c) If a petition for exemption from the requirements of Part 67 of this chapter is denied, the petitioner may file a petition for reconsideration with the Federal Air Surgeon. The petition must be filed in duplicate, within 30 days after the petitioner is notified of the denial of the exemption. However, if the final action on the initial petition was by the Administrator in accordance with the second sentence of § 11.53(a), the Federal Air Surgeon refers the petition for reconsideration and recommendations and those of the Chief Counsel to the Administrator for final action.

(d) A petition for reconsideration under this section must be based on the existence of one or more of the following:

(1) A finding of a material fact that is erroneous.

(2) A necessary legal conclusion that is without governing precedent or is a departure from or contrary to law, FAA rules, or precedent.

(3) An additional fact relevent to the decision that was not presented in the initial petition for exemption. In order for a petition under paragraph (a) or (c) of this section to be based on this ground, the petition for reconsideration must state the reason the additional fact was not presented in the initial petition.

Subpart D—Rules and Procedures for Airspace Assignment and Use

§ 11.61 Scope.

(a) This subpart establishes procedures for initiating, processing, issuing, and publishing rules and orders issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), including—

(1) Designations of Federal airways, control zones, control areas, control area extensions, positive control areas, positive control route segments, coded jet routes, transition areas, and antenna farm areas;

(2) Assignments of segments or parts of the navigable airspace for special use purposes, such as restricted areas, military climb corridors, and experimental flight test areas; and

(3) Special rules or orders relating to the assignment or use of navigable airspace.

(b) This subpart does not apply to emergency cases and cases in which the procedures described in paragraph (a) of this section are found to be impractical, unnecessary, or contrary to the public interest.

(c) For the purposes of this subpart, "Director" means the Associate Administrator for Programs, the Director, Air Traffic Service (or any person to whom he has delegated his authority in the matter concerned), or a Regional Director. The authority of the Regional Director is limited to those matters relating to terminal area airspace, within the United States, as described in § 71.165 of Subpart E, and Subparts F and G, of Part 71. He may, however, include those matters relating to Federal airways or additional control areas within the United States, as described in Subparts B, C and I, and § 71.163 of Part 71, if they are ancillary to the terminal area airspace matter.

(d) For the purposes of this subpart, "Chief Counsel" means the Chief Counsel, or a Regional Counsel, or the Assistant Chief Counsel for Regulations and Enforcement, or any person to whom the Chief Counsel or Regional Counsel has delegated his authority in the matter concerned.

§ 11.63 Filing of proposals.

(a) Each proposal, except one arising in the FAA, for the designation of Federal airways or other areas for normal air traffic use, the assignment of navigable airspace for special use purposes, or the issue of a special rule or order relating to the use of navigable airspace, must be filed in writing, in triplicate, with the Director.

(b) The Director may, on his own motion, initiate the procedures prescribed in this subpart for proposals arising within the FAA.

(c) A proposal requesting the assignment of navigable airspace for special use purposes, or for the designation of an area for air traffic purposes, must include at least the following:

(1) The location and a description of the airspace desired for assignment or designation.

(2) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the assigned or designated area.

(3) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if the assignment or designation is made.

(4) The name and location of the agency, office, facility, or person to whom authority would be delegated to permit the use of the airspace during those times it would not be used for the purpose to which it would be assigned.

(d) Subject to the approval of the Chief Counsel with respect to form and legality, the Director issues a notice of any rejected proposal.

§ 11.65 Issue of notice of proposed rule making.

(a) If it is determined that the subject matter of a proposal should be submitted to the rule-making process, or if rule-making action is to be taken on his own motion, the Director, subject to the approval of the Chief Counsel with respect to form and legality, issues a notice of proposed rule making.

(b) Normally, a notice of proposed rule making is issued within approximately 30 days after receipt of a proposal with respect to which it has been determined that action might be taken.

(c) Each notice of proposed rule making is published in the FEDERAL REGISTER and includes at least the following:

(1) A statement of the time, place, and nature of the public rule-making proceedings.

(2) A reference to the authority under which it is proposed.

(3) Either the terms or substance of the proposed action or a description of the subjects and issues involved.

(d) Approximately 30 days are allowed for submitting written information, views, or arguments on the notice. Petitions for extension of the time for such comments are governed by the provisions of § 11.29(c). If a public hearing is to be held, either the original notice of proposed rule making or a revised notice gives approx-

imately 30 days notice. The Director may grant or deny petitions for extension of the time for comments on the notice and may change the date of any hearing previously noticed.

(e) Written information, views, and arguments submitted in response to a notice of proposed rule making, or that are requested after the notice, must be submitted in triplicate.

(f) Each interested person is entitled to discuss or confer informally with appropriate FAA officials concerning a proposed action. However, to become a part of the formal record for consideration, any information, views, or arguments presented during a conference must also be submitted in writing in accordance with the notice.

§ 11.67 Hearings.

(a) Sections 7 and 8 of the Administrative Procedure Act do not apply to proceedings used to formulate rules under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)). Whenever the Director, in his discretion, considers that a hearing is necessary to provide informed administrative action and assure adequate protection of private or public interests, he may hold an informal public hearing. However, any rule or order issued in a case in which such a hearing is held is not based exclusively on the record of the hearing.

(b) The Director designates a presiding officer for each hearing and the Chief Counsel designates a legal adviser.

(c) Normally, hearings held under this section are held in the vicinity of the affected airspace. Interested persons are allotted time to make an oral presentation without interruption and a verbatim transcript is made of the proceedings by a certified court reporter.

(d) The procedure in hearings held under this section is as follows:

(1) The presiding officer makes an opening statement with particular reference to the notice of proposed rule making.

(2) The presiding officer designates interested persons or their authorized representatives to speak at the hearing.

(3) The presiding officer allots enough time to each interested person on an equal basis so that his position may be expressed fully and placed on the record, with those who favor it speaking first followed by those who oppose it, initial statements being made as far as possible without interruption, and questions permitted after initial statements have been made by all designated persons.

(4) Arguments and oral statements are limited to the subject named in the notice of proposed rule making.

(5) Written information, views, arguments, or briefs may be offered for the record, but may not be accepted after the hearing unless good cause is shown or the submission is requested by the presiding officer or the Director.

(e) The presiding officer of a hearing may deviate from the procedures prescribed in this section to assure a more complete and informative record.

§ 11.69 Adoption of rules or orders.

(a) After the closing date for submitting written comments on a notice or, if a hearing is held; after the hearing, the Office having substantive responsibility for the subject involved studies the entire matter of a proposed rule or order. The Chief Counsel determines whether legal justification exists for the proposed action, and thereafter prepares an appropriate rule, order, or notice of denial. The rule, order, or notice of denial is then submitted to the Director for his action.

(b) Each rule or order issued by the Director is published in the FEDERAL REGISTER and in such other publications as the Director considers desirable. Each notice of denial is sent to the person who made the proposal and to such other interested persons as the Director considers desirable.

(c) Each rule or order issued under this subpart becomes effective not less than 30 days after it is published, except in an emergency, or when it is impractical, unnecessary, or contrary to the public interest.

§ 11.71 Exemptions.

(a) A petition for an exemption from any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C.

339-942 O - 81 - 6

1348(a)) may be filed with the Director. Such a petition must be in triplicate and state clearly the nature of the requested exemption and the reasons why it should be granted.

(b) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition filed under this section and shall notify the petitioner of his action.

§ 11.73 Petitions for rehearing or reconsideration of rules or orders.

(a) Any interested person may petition the Administrator for a rehearing on, or for reconsideration of, any rule or order issued under section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)). Such a petition must be filed, in triplicate, within 30 days after the rule or order is published in the FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule or order is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose, and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

§ 11.75 Petitions for revoking or modifying rules or orders.

(a) Any interested person may petition to revoke or modify any rule or order covered by this subpart. Such a petition must be filed, in triplicate, with the Director and must clearly state the information, views, and arguments the petitioner considers necessary to support the requested action and must clearly indicate the effect the action would have on the use of navigable airspace.

(b) A petition filed under this section is processed in the same manner as an original proposal, or in any other manner that the Director considers necessary or desirable.

Subpart E—Processing of Airworthiness Directives

§ 11.81 Scope.

(a) This subpart prescribes the procedures to be followed in rule-making proceedings for Airworthiness Directives issued pursuant to Part 39 and in granting or denying exemptions from Airworthiness Directives. It also designates the persons that are authorized to act for the Administrator in connection with those proceedings and exemptions.

[(b) For the purposes of this subpart, "Director" means the Director of Airworthiness, or a Regional Director of a region within the 50 states.

[(c) The authority for issuing Airworthiness Directives is limited to the following persons:

[(1) The Director of Airworthiness; and

[(2) Regional Directors, for products under the authority of those regions, as determined by the Administrator.]

[(d)] For the purposes of this subpart, "Chief Counsel" means the Chief Counsel or a Regional Counsel, or the Assistant Chief Counsel for Regulations and Enforcement, or any person to whom the Chief Counsel or Regional Counsel has delegated his authority in the matter concerned.

§ 11.83 Processing of petitions for rule making or exemption.

Whenever the FAA receives a petition for rule making or for an exemption, a copy of the petition is referred for action, as provided in § 11.27, to the Director having Airworthiness Directive responsibility for the product involved.

§ 11.85 Issue of notice of proposed rule making.

Whenever he determines that a notice of proposed rule making is necessary or desirable, the Director may, subject to the approval of the Chief Counsel with respect to form and legality, issue the notice provided for in § 11.29.

In addition, he may grant or deny petitions for extension of the time for comments on the notice, filed under § 11.29(c).

§ 11.87 Proceedings after notice of proposed rule making.

(a) Each person who submits written information, views, or arguments in response to a notice of proposed rule making, or during additional rule-making proceedings in connection with such a notice, must file the number of copies specified in the notice.

(b) Whenever the Director determines that additional rule-making proceedings of the kind described in § 11.33 are necessary or desirable, he may designate representatives to conduct those proceedings.

§ 11.89 Adoption of final rules.

In any case in which a Notice of Proposed Rule Making was issued, the Director completes his analysis and evaluation of the information, views, and arguments submitted with respect to the proposed rule and studies the entire matter. In any case in which the subject matter is, for good cause, submitted to the rule-making process without notice, the Director initiates the procedure. The Chief Counsel determines whether legal justification exists for the action proposed, and thereafter prepares an appropriate rule or notice of denial. The rule or notice of denial is then submitted to the Director for his action.

§ 11.91 Grant or denial of exemption.

(a) The Director may, subject to the approval of the Chief Counsel with respect to form and legality, grant or deny any petition for an exemption from an Airworthiness Directive.

(b) Whenever a petition is granted or denied under this section, the Director prepares, subject to the approval of the Chief Counsel with respect to form and legality, a notice to the petitioner informing him of the action taken.

§ 11.93 Petitions for reconsideration of rules.

(a) Any interested person may petition the Administrator for a rehearing on, or for reconsideration of, any Airworthiness Directive. Such a petition must be filed, in duplicate, within 30 days after the rule is published in the FEDERAL REGISTER. It must contain a brief statement of the complaint and an explanation as to how the rule is contrary to the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state their nature and purpose and the reason they were not presented at the hearing or in writing within the allotted time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator orders otherwise, the filing of a petition under this section does not stay the effect of a rule or order.

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Special Federal Aviation Regulation 27

Compliance With Aircraft Emission Standards Issued by Environmental Protection Agency

Adopted: December 26, 1973 **Effective: February 1, 1974**

(Published in 38 F.R. 35427, December 28, 1973)

The purpose of this Special Aviation Regulation (SFAR) is to ensure compliance with aircraft and emission standards issued by the Environmental Protection Agency (EPA). Initially, this SFAR covers fuel venting and smoke number requirements issued by that agency in 40 CFR Part 87 and that originally applied beginning on January 1, 1974 but that have recently been extended to February 1, 1974 by EPA. The basis for this SFAR is § 232 of the Clean Air Act, as amended.

This action is based on a Notice of Proposed Rule Making (Notice No. 73-29) issued on October 31, 1973 and published in the Federal Register (38 F.R. 30277) on November 2, 1973. Interested persons have been afforded an opportunity to participate in the making of this regulation and due consideration has been given to all relevant matter presented.

I. *Background prior to Notice 73-29.* As stated in Notice 73-29, the FAA has been concerned with the regulatory aspects of aircraft emissions since issuance of an Advance Notice of Proposed Rule Making, entitled "Aircraft Engine Emissions" (Notice 70-15) which was published in the Federal Register (35 F.R. 5264) on March 28, 1970. Public comment was received on the development of potential regulatory policies with respect to emissions from civil aircraft. On December 31, 1970, the Clean Air Act was amended (P.L. 91-604), giving EPA responsibility for issuing emission standards applicable to emissions of air pollutants from aircraft or aircraft engines which, in the judgment of EPA, cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare (§ 231 of the Clean Air Act, as amended.) The Clean Air Amendments of 1970 also added § 232 of the Clean Air Act. Section 232 provides that The Secretary of Transportation, after consultation with EPA, "shall prescribe regulations to insure compliance with all standards prescribed under § 231 by the Administrator (of EPA). The regulations of The Secretary of Transportation shall include provisions making such standards applicable in the issuance, amendment, modification, suspension, or revocation of any certificate authorized by the Federal Aviation Act or the Department of Transportation Act." On May 12, 1971 (36 F.R. 8733), the functions vested in The Secretary of Transportation by Part B of Title II of the Clean Air Act, as amended (including § 232) were delegated by The Secretary to the Administrator of the FAA.

Pursuant to § 231 of the Clean Air Act, EPA on December 12, 1972 issued a Notice of Proposed Rule Making containing proposed Part 87 (37 F.R. 26488). The air transportation industry was afforded opportunity to comment on the substance and timing of the standards in EPA Part 87 that were proposed in that Notice. In addition, as prescribed in § 231 of the Act, EPA held hearings, concerning the proposed aircraft emission standards, in Boston, Massachusetts, on January 29, 1973, and in Los Angeles, California, on February 6, 1973. As EPA pointed out in the preamble to EPA Part 87, testimony was presented at the hearings by twenty-two representatives of domestic and foreign manufacturers and operators of aircraft and aircraft engines, and by other interested parties. Other comments in response to Proposed Part 87 were submitted to EPA, following the hearings, from thirty-one organizations.

In order to ensure that all persons who attended EPA's hearings, or who were otherwise interested, would know the probable effect of EPA's proposed Part 87 on the regulatory actions of the FAA, the FAA provided, at the EPA hearings in January and February, 1973, a comprehensive "Tentative FAA Regulatory Draft re: Environmental Protection Agency Proposed Aircraft Emission Standards." Public availability of this document was announced by FAA in the Federal Register on January 19, 1973 (38 F.R. 1949). Advance notice that the FAA would, if possible, make this document available had also been published in the Federal Register on December 12, 1972, as part of FAA's Notice of Participation in the EPA hearings (37 F.R. 26458). As stated

in the Notice of Availability, the draft distributed at the hearings contained "detailed regulatory language that represents the kinds of FAA rule making that, under § 232 of the Clean Air Act, as amended, would have to follow the final issuance of EPA Part 87 if that part is adopted as proposed" and was made available so that "public commentators will have full knowledge of both the EPA and the probable FAA proposals prior to the hearings." The draft itself also stated that "careful review of this draft and of its relation to EPA's proposed Part 87 * * * is essential to a fully informed and constructive response, by the regulated aviation public, at the forthcoming hearings."

Following this joint effort between EPA and FAA, EPA on July 6, 1973, issued Part 87 (40 CFR Part 87) entitled "Control of Air Pollution from Aircraft and Aircraft Engines" (published in the Federal Register, 38 F.R. 19088, on July 17, 1973). That part includes fuel venting requirements that apply to all turbofan and turbojet engines with 8,000 pounds thrust or more, and smoke number requirements for JT8D engines, which originally applied beginning on January 1, 1974. On December 19, 1973, EPA issued an amendment to Part 87 that extended the effective date of the initial fuel venting and smoke requirements to February 1, 1974 and provided a regulatory basis for the issuance of temporary exemptions on or after that date [see "Temporary Exemptions From Aircraft Emission Standards (Fuel Venting and Smoke)," which, as of this date, is expected to be published shortly in the Federal Register. That amendment provides that exemptions issued by EPA will be published in the Federal Register. This SFAR is issued to ensure compliance with the EPA standards that become effective on February 1, 1974 consistent with the terms of any exemptions issued by EPA.

II. *Notice 73–29.* As stated above, Notice 73–29, entitled "Initial Compliance with Aircraft Emission Standards Issued by EPA (Smoke and Fuel Venting Emissions)" was issued by FAA on October 31, 1973. That Notice proposed regulations that would prohibit as of January 1, 1974 (the original compliance date in EPA Part 87) the certification or airworthiness approval, return to service after maintenance, and operation of airplanes (and aircraft engines) that do not comply with the fuel venting and smoke number requirements of EPA Part 87 that apply beginning on January 1, 1974. In order to reflect the statutory division of responsibility between EPA (under § 231 of the Clean Air Act, as amended) and FAA (under § 232 of that Act), the Notice did not solicit comments concerning the substance or effective date of the already final requirements of EPA Part 87, but only invited comments concerning the aspects of the proposed rules that involve FAA's use of its authority to ensure compliance with EPA Part 87. Comments concerning matters within EPA's regulatory discretion and authority were referred to that Agency. Notice 73–29 also contained procedural provisions needed to reflect the respective regulatory roles of EPA and FAA, and to reflect the preemptive effect of § 233 of the Clean Air Act, as amended (42 U.S.C. 1857 f–11) which provides that no State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine unless such standard is "identical to a standard applicable to such aircraft under this part" (Part B of Title II of the Act).

III. *Comments in response to Notice 73–29.* Numerous information copies of comments were reviewed addressing either the substance or the timing of the provisions of EPA Part 87 that were incorporated by reference in Notice 73–29. As stated above, the Notice referred such comments to EPA for consideration. As also discussed above, EPA, in response to comments concerning the provisions of EPA Part 87 that originally were to become effective on January 1, 1974, has, in addition to changing the effective date to February 1, 1974, amended Part 87 to allow for the issuance of exemptions, by EPA, to individual applicants who demonstrate that such exemptions are justified in the public interest. In this connection, § 3(b) of this SFAR provides that, if EPA takes action to issue an exemption (or other relaxation), "the new, relaxed EPA procedure or requirement, upon its effective date, is incorporated by reference in this SFAR and supersedes the provisions of this SFAR that are based on the provisions of EPA Part 87 that were relaxed by such action." This will ensure that this SFAR is implemented in a manner that is consistent with any exemptions that may be issued by EPA.

In addition to comments received concerning EPA Part 87, the following comments were received with respect to the aspects of Notice 73–29 that involve FAA's responsibility to ensure compliance with EPA's requirements:

1. It was requested that FAA postpone its requirement with respect to return to service after maintenance, rebuilding, or alteration. It was argued that much refinement of this proposed regulation is needed in order to be able to prescribe, with precision, the actions that maintenance personnel must take in order to ensure that the requirements of EPA Part 87 are not violated by the performance of maintenance, rebuilding, or alteration of aircraft or aircraft engines. The overall problem of continuing compliance is being studied by FAA, in close consultation with the EPA, to determine the most effective means of providing regulatory tools for ensuring that aircraft maintenance, rebuilding, and alteration personnel understand and, in a normal maintenance environment, can deal with test procedures and technologies associated with continuing compliance with clean air requirements. Pending development of further regulations concerning emission inspection of in-service aircraft, the provisions of proposed § 23 requiring a demonstration of compliance with EPA Part 87 prior to approval for return to service are accordingly deleted from this SFAR. As further discussed below, compliance with applicable maintenance requirements will be accepted by the FAA as demonstrating compliance with the smoke emissions requirements of EPA Part 87 for in-use engines until testing requirements for those engines are prescribed by FAA.

2. It was requested that the applicability of the SFAR to foreign aircraft be clarified. Specifically, concern was expressed with respect to the reference, in § 1(b) of the proposed SFAR, to "foreign airworthiness certificates that are equivalent to U.S. standard airworthiness certificates." The quoted language originates in the definition of "aircraft" in § 87.1 of EPA Part 87 (i.e. "'aircraft' means any airplane for which a U.S. standard airworthiness certificate or equivalent foreign airworthiness certificate is issued"). The FAA believes that a straight forward application of the term "equivalent" simply requires that the SFAR be applied to foreign airplanes that would be covered if they were registered in the United States. Any other policy would involve a high probability of inadvertent discriminatory application of the SFAR (either against U.S. registered airplanes or against foreign registered airplanes). FAA thus believes that the EPA definition of 'aircraft' is clear, and is simply intended to ensure that U.S. registered and foreign registered aircraft are treated equally. Any questions concerning the applicability of the SFAR to a foreign aircraft will be resolved by determining whether the aircraft, if it were certificated in the U.S., would be required by the Federal Aviation Regulations to have a U.S. standard airworthiness certificate in order to conduct the kinds of operations that are to be conducted by the foreign registered aircraft in the U.S. This clarifying language has been added to § 1(b) of the SFAR.

3. Concern was expressed that application of the terms of EPA Part 87 to certain airplanes might reduce safety. The FAA will ensure, and this SFAR requires (see § 11), that no type design or hardware modifications needed to comply with EPA Part 87 will be approved unless full compliance with applicable airworthiness standards is shown. Further, if FAA determines that compliance with any provision of EPA Part 87 may compromise safety, EPA will be notified to revise Part 87 under § 87.6 of that Part.

4. A question was raised as to whether the fuel venting emissions provisions of the SFAR could be complied with through means of compliance applied to the airframe, or whether all means of compliance must be restricted to the engine. As stated in the preamble to Notice 73-29, EPA has advised FAA, with respect to the intent of § 87.11 (and the definition of "fuel venting emissions" in § 87.1(26)), that § 87.11 was intended to control only the intentional discharge of fuel from fuel nozzle manifolds after the engines are shut down. Any means shown to prevent such discharge will be accepted, whether such means is applied to the airframe or to the engine(s). As also stated in the Notice, such means of compliance include (1) incorporation of an FAA approved system that recirculates the drained fuel back into the fuel system, (2) capping or otherwise securing the pressurization and drain (dump) valve, or (3) manually draining the fuel from a holding tank into an appropriate container. Comments requested that these means of compliance be specified in the SFAR itself rather than the preamble. This comment has merit and has been adopted (see § 14(a)). It should be noted that the list of acceptable means of compliance is not exhaustive and that any other means demonstrated to prevent the intentional discharge of fuel from

fuel nozzle manifolds, after engine shutdown, will be accepted as complying with the provisions of § 87.11 of EPA Part 87 that are incorporated in this SFAR.

5. One comment expressed concern that EPA's definition of "fuel venting emissions" might be interpreted as prohibiting more than the international discharge of fuel from fuel nozzles after engine shutdown. Responsibility for interpreting the terms of EPA Part 87 rests with EPA. EPA's interpretation of the intent of § 87.11 contained in a letter from EPA to FAA, dated October 31, 1973 (which has been placed in the rules docket) interprets § 87.11 as applying only to the intentional discharge of fuel, from fuel nozzles, after engine shutdown. Section 3(d) of the SFAR provides that all interpretations of EPA Part 87 that are rendered by EPA also apply to the SFAR. In addition, the intent of this EPA interpretation is restated in § 14(a) of the SFAR.

6. Concern was expressed that installation of the Pratt and Whitney smokeless combustor on Class T–4 (JT8D) engines might not be in compliance with the applicable smoke number provisions of EPA Part 87. The issues are (1) whether or not the smoke measurement systems used to test JT8D engines equipped with the Pratt and Whitney smokeless combustor are approved by EPA under § 87.80 which provides that, in addition to the applicable smoke measurement testing procedures specified in Part 87, "other smoke measurement systems may be used if shown to yield equivalent results and if approved in advance by the Administrator" (or EPA), and (2) whether a smoke number of 30 or less was achieved under the approved equivalent smoke measurement system. EPA advised that both conditions have been met. Thus, by letter dated December 7, 1973, EPA has advised the FAA that, having reviewed tests conducted by Pratt and Whitney in 1971 and 1973 on JT8D engines incorporating reduced smoke combustors, "EPA has determined, under Subpart H, § 87.80 of EPA Part 87, that the smoke measurement systems used in these tests yield results equivalent to the results which would have been obtained under full compliance with Subpart H, § 87.80 of Part 87. The smoke numbers obtained in these tests fell below 30 and are considered to comply with the provisions of Subpart C of Part 87, which apply to new engines of Class T–4 beginning January 1, 1974." With respect to in-use engines (i.e. the many JT8D engines in service that are already equipped with the Pratt and Whitney reduced smoke combustor, and new engines with that combustor that will be introduced into service and become "in-use" engines), EPA stated, in the same letter, that EPA realizes that "Pratt and Whitney has encountered difficulty in establishing the design of a multipoint smoke sampling probe fully matching the specifications laid out in Part 87, and suitable for routine smoke testing on in-use engines. In view of this (EPA) will consider compliance with Subpart D, § 87.31(a) and (e), to have been initially demonstrated by maintenance records or other evidence showing that the reduced smoke combustors . . . have been installed. Following the development of an acceptable multipoint smoke sampling rake suitable for routine testing with (Class T–4 engines), compliance will be expected to be demonstrated by testing random samples of engines in airline service at normal overhaul periods." In view of these technical determinations by EPA, the FAA will ensure compliance with February 1, 1974, smoke number requirements of EPA Part 87 applicable to JT8D engines as follows: For "new" engines (which are defined in § 87.1(6) as engines that have never been in service), operators of airplanes equipped with those engines are required to ensure that such engines are equipped with the Pratt and Whitney reduced smoke combustor before they are placed into service (and thus become "in-use" engines). New engines equipped with that combustor will be regarded as complying with the applicable smoke number requirements of § 87.21 of EPA Part 87. With respect to "in-use" engines (which are defined in § 87.1(8) as engines that are in service), each such engine having a Pratt and Whitney reduced smoke combustor, and for which applicable maintenance requirements and complied with, will be accepted as being in compliance with the smoke number requirements of § 87.31(a) and (e) until a multipoint smoke sampling rake suitable for routine testing is readily available and the FAA has issued regulations for testing random samples of engines at normal overhaul periods.

In other respect, this Special Federal Aviation Regulation is issued for the reasons specified in Notice 73–29.

The Pratt and Whitney Engineering Change and Service Bulletins describing complying reduced smoke burners are incorporated by reference in § 14(b) of this SFAR.

These documents (P&W Engineering Change No. 197707 and Service Bulletins 2417 and 2531) are available for examination by interested persons in the FAA Rules Docket AGC-24, Room 915, 800 Independence Avenue, S.W. Washington, D.C. 20591. In addition, copies may be obtained in person by writing the Director, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. This will ensure that the incorporated materials are readily available to interested persons. This incorporation by reference is intended and completed by inclusion of these documents in this SFAR, and was approved by the Director of the Federal Register pursuant to 1 CFR Part 51, on December 19, 1973. It should be restated, however, that the incorporated documents merely describe acceptable means of compliance with the applicable smoke emissions requirements of this SFAR. Other means of compliance may be accepted by the FAA.

Authority: (Sections 232 and 233 of the Clean Air Act, as amended December 31, 1970, Pub. L. 91-604, sec. 11(a)(1), 84 Stat. 1704 (42 U.S.C. 1857 f-10, f-11), as delegated 36 FR 8733; 40 CFR Part 87 (38 FR 19088); sec 307(c), 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, and 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C 1655(c))

In consideration of the foregoing, the following new Special Federal Aviation Regulation No. 27 is added, effective February 1, 1974, to Title 14 of the Code of Federal Regulations.

Pursuant to 1 C.F.R. Part 51, the Director of the Federal Register approved on December 19, 1973, the incorporation by reference, into SFAR 27, of Pratt and Whitney Engineering Change 19707 and Service Bulletins 2417 and 2531.

Special Federal Aviation Regulation 27-1

Compliance With Environmental Protection Agency Fuel Venting Emission Standards

Adopted: December 23, 1974 **Effective: January 1, 1975**

(Published in 39 F.R. 45008, December 30, 1974)

The purpose of this amendment to Special Federal Aviation Regulation (SFAR) No. 27 is to require compliance with Environmental Protection Agency (EPA) fuel venting emission standards that are effective beginning January 1, 1975. These EPA standards, specified in 40 CFR Part 87, apply to new and in-use aircraft turbofan or turbojet engines of less than 8,000 pounds thrust, to new and in-use aircraft turbo propeller engines, and to airplanes powered by those engines. The primary basis for this amendment is § 232 of the Clean Air Act, as amended. Editorial improvements are also made.

Notice No. 74-23 was published in the Federal Register on June 27, 1974 (39 F.R. 23271), stating that the Federal Aviation Administration was considering amending SFAR 27 to require compliance with certain EPA fuel venting emission standards made effective by that Agency on January 1, 1975. Interested persons were afforded an opportunity to participate in the proposed rule making. Due consideration was given to all relevant matter presented.

Five comments were received in response to the notice with two commentators objecting. One commentator stated that the proposed regulation would have no marked effect on the environment and was merely "regulation for regulation's sake." According to the commentator, the great majority of aircraft affected by the proposal are already in compliance with the proposed standards. In addition, the commentator objected to one of the means of complying with the regulation, that is, manually draining the fuel from a holding tank into a container. The commentator stated that this means of compliance did not control how the drained fuel is disposed of.

With respect to the environmental benefits of the substantive standards of EPA Part 87 that are added to SFAR 27 by this amendment, this factor was considered by

EPA in its promulgation of Part 87. Regarding the ground handling of fuel after it is drained into a container, this issue involves airport fuel shortage and ground fuel management practices that may justify future study. The FAA invites comments concerning the contribution of specific ground fuel handling practices to air quality deterioration, including suggestions concerning means of ensuring that drained fuels are not later evaporated into the atmosphere, thus defeating the intent of the fuel venting emissions regulations.

One commentator addressed the applicability of this amendment to foreign registered aircraft operated in the United States. This commentator stated that "unilateral regulations such as this proposed would be contrary to certain obligations assumed by the United States as a party to the Chicago Convention and to a number of bilateral air transport agreements." The commentator referred to § 1 of the SFAR which, pursuant to § 87.3 of EPA Part 87, provides that the SFAR "does not apply where inconsistent with an obligation assumed by the United States to a foreign country in a treaty, convention, or agreement." The commentator suggested that standards, such as those in this amendment, should be developed internationally through the International Civil Aviation Organization. The FAA agrees that it is most desirable that the introduction of standards affecting international civil aviation be accomplished in an orderly fashion through the development of international standards. However, it is the position of the U.S. that no international treaties, conventions, or agreements currently prevent the FAA from exercising its duties under the Clean Air Act Amendments of 1970 and EPA Part 87. Therefore, SFAR 27, including this and subsequent amendments, must be applied to foreign airplanes as prescribed in § 1 of the SFAR.

In response to the fuel venting emissions provisions of EPA Part 87 that become effective on January 1, 1975 (namely Subpart B of EPA Part 87), this amendment adds definitions of "Class T1," and "Class P2" engines that are identical to those in § 87.1 of EPA Part 87, and adds references to those engine classes, and to the compliance date (January 1, 1975) in the appropriate sections of the SFAR.

Finally, editorial changes are made to the regulation. One editorial change restructures the paragraphs containing the references to the incorporated provisions of EPA Part 87 in order to standardize the form of those references where possible.

Another editorial change eliminates possible confusion concerning the effect of § 14(a) on the fuel venting emissions requirements of the SFAR. Section 14(a) states that compliance with the applicable fuel venting provisions "may be shown by any means of compliance, applied to the airframe or engine, that prevents..." However, the subsequent sections of the SFAR could be individually read as requiring that fuel venting emissions compliance must be shown for the engine (and may not be shown for the airframe alone). This is not intended. To ensure that there is no question that the required means of showing compliance with the applicable fuel venting emissions requirements may be applied to the airframe or engine, the words "airframe or engine" are added to the fuel venting emissions requirements. Consistent with this intent, the requirement in § 19 of the SFAR that fuel venting emissions requirements be met as a condition to the isuance of an airworthiness approval tag (FAA Form 8130-3) is deleted for two reasons: First, it is meaningless as a general requirement since § 14(a) provides that fuel venting emissions requirements need not be met by engines if airframe modifications show compliance. Second, it is redundant since, under § 25 of the SFAR, if the airframe does not comply with fuel venting emissions requirements, and the engine also does not comply, the airplane may not be operated. There is, thus, no need to apply the fuel venting emissions requirement at the engine airworthiness approval tag stage. Similarly, since, as stated above, the effect of § 14(a) is that an engine need not comply with any of the fuel venting emissions requirements of the SFAR if the airframe complies, and since airplane type certification approves the complete airplane (including its engines), the lead-in paragraphs of §§ 15 and 17 (concerning the issuance of type certificates, amended type certificates and supplemental type certificates) have been revised to refer only to certification of the airplane. No substantive change in practice results from these changes to §§ 15, 17, and 19 since they merely bring those sections into closer conformity with the intent of § 14(a), which already applies throughout the SFAR. Further notice and public procedure on these changes is, therefore, unnecessary.

As stated above, the requirements of 10 CFR Part 87 that are incorporated in this amendment become effective beginning on January 1, 1975. Section 232 of the Clean Air Act, as amended (42 U.S.C. 1857 f–10) requires the Secretary of Transportation to prescribe regulations to insure compliance with all standards prescribed under § 231 of that Act (42 U.S.C. 1857 f–9), which include the newly incorporated provisions of Part 87. Accordingly, this amendment must be effective no later than January 1, 1975. Good cause, therefore, exists for making this amendment effective less than 30 days after publication in the Federal Register.

Authority: [Section 232, Clean Air Act, as amended December 31, 1970, P.L. 91–604 (42 U.S.C. 1857 f–10), as delegated (36 F.R. 8733); 40 CFR 87 (39 F.R. 19088); sections 307(c), 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(c), 1354(a), 1421, and 1423; section 6(c), Department of Transportation Act (49 U.S.C. 1655(c))].

Special Federal Aviation Regulation 27–2

Compliance With Environmental Protection Agency Exhaust Emissions (Smoke) Standards

Adopted: November 23, 1975 Effective: January 1, 1976

(Published in 40 F.R. 55311, November 28, 1975)

The purpose of this amendment to Special Federal Aviation Regulation (SFAR) 27 is to require compliance with Environmental Protection Agency (EPA) standards for exhaust emissions of smoke that are effective beginning January 1, 1976. These EPA standards, specified in 40 CFR Part 87, apply to new and in-use aircraft turbofan or turbojet engines that are designed for subsonic airplanes and that have a rated power of 29,000 pounds thrust or greater. Foreign, as well as U.S. registered, civil airplanes are affected. The primary basis for this amendment is § 232 of the Clean Air Act, as amended.

Notice No. 75–34 was published in the *Federal Register* on September 16, 1975, (40 F.R. 42754), stating that the Federal Aviation Administration (FAA) was considering amending SFAR 27 to require compliance with EPA standards for exhaust emissions of smoke that are effective beginning January 1, 1976.

These standards, as currently prescribed in 40 CFR Part 87, apply to new and in-use aircraft turbofan or turbojet engines that are designed for subsonic airplanes and that have a rated power of 29,000 pounds thrust or greater. Interested persons were afforded an opportunity to participate in the proposed rulemaking. Due consideration was given to all relevant matter presented.

Ten comments were received in response to the Notice. Three commenters objected to U.S. action affecting foreign registered aircraft operated in the United States, and stated that the U.S. is seeking to apply the standards of SFAR 27 to these aircraft prior to an international agreement thereon. The FAA believes, as stated in response to a similar comment on the Notice proposing amendment SFAR 27–1, that it would be desirable that the introduction of standards affecting international civil aviation be accomplished in an orderly fashion through the development of international standards. However, it is the position of the United States that no international treaties, conventions, or agreements currently prevent the FAA from discharging its responsibilities under the Clean Air Act, as amended, in accordance with the EPA standards prescribed in 40 CFR Part 87. Therefore, as previously stated, SFAR 27, including this and subsequent amendments, must be applied to foreign aircraft as prescribed herein.

Several commenters suggested that, since § 14(b) now reads in part: 'Compliance with the exhaust emissions requirements of this SFAR that apply to Class T–4 engines beginning on February 1, 1974, is shown if the engine is either a JT8D–11 or JT8D–15 or . . . ," compliance with these additional smoke requirements for Class T2 of, or more

than, 29,000 pounds thrust should be shown in the same manner. The 1974 requirements applied to only one engine type, the JT8D, which could easily be handled in the regulations as a separate item. There are currently three engine types (the JT9D, CF6, and RB 211) within Class T2, and there may be applications for certification of additional engine types within this class and thrust range. Therefore, the more generalized language identifying the engine class, rather than the engine type, is used to designate which engines, including modifications, must conform to these standards.

One commenter was concerned that § 14(d), in conjunction with § 14(c), would imply that the FAA wants to witness the airlines' maintenance programs, and suggested that, as there are no present requirements for continuous monitoring of emissions, this section should be deleted or confined solely to engine certification testing conducted by the manufacturer. The FAA disagrees with this comment. SFAR 27 should contain, for the specific purpose of emissions testing, the same kind of FAA monitoring authority that is now exercised with respect to airworthiness and related testing or compliance programs. Section 14(d) is, therefore, adopted as proposed.

Several commenters were concerned that the proposed amendment contained no guidelines concerning the submission of engine test data that would be required to show compliance. The proposed amendment is explicit as to the maximum smoke number allowable for any class T2 engine of or over 29,000 pounds thrust, and clearly states that the "related test procedures" must be those prescribed by the EPA in 40 CFR Part 87. Further definition of compliance is not deemed necessary to this amendment. The FAA has a current program to develop correction procedures that would compensate for atmospheric variations. The results of these efforts will be reviewed to determine whether additional rule making is necessary.

One commenter stated that there was no specific requirement that foreign-built engines must comply with the proposed amendment. Section 1 of SFAR 27 states that the SFAR applies to both U.S. and foreign airplanes. Thus, there is no need to repeat the applicability to foreign aircraft in each amendment.

One commenter suggested that proposed § 15(b) be amended to apply the standards to each engine type, or type design, rather than "the engine." The FAA believes that it is clearly understood, throughout the type certification regulations, that compliance with those regulations involves compliance of the type design therewith. Further specificity is, therefore, not believed to be necessary in this regard. This proposal is, therefore, adopted as proposed.

One commenter proposed that § 14(c) include a reference to overhaul rework standards, in addition to maintenance requirements. The FAA does not consider this addition necessary since overhaul rework standards are included in the general term "applicable maintenance requirements."

This amendment adds a new paragraph (b) to section 17 (and reorganizes the current text of that section as paragraph (a)) providing that compliance with the applicable exhaust emissions requirements of 40 CFR Part 87 must be shown for the issuance of supplemental or amended type certificates for engines. This change was not specifically proposed in the Notice. However, current SFAR 27 prohibits the operation in the U.S. of any airplane unless each engine complies with the EPA exhaust emissions standards that apply beginning February 1, 1974 (§ 25). The regulation also prohibits the issuance of airworthiness approval tags to individual engines that do not meet those February 1, 1974 standards (§ 19). The Notice proposed to expand those sections to cover new and in use engines with respect to the EPA exhaust emissions standards that apply beginning January 1, 1976. After reviewing these current and proposed requirements affecting individual engines, the FAA believes that it may be misleading to issue supplemental or amended type certificates for engines that cannot legally operate and for which no airworthiness approval tag can be issued. Therefore, to ensure consistency with these other provisions and avoid inducing applicants into supplemental or amended type certification programs for engines whose operation cannot be permitted because of the scope of EPA Part 87, this amendment provides that the FAA will not issue supplemental or amended type certificates for engines that do not meet the applicable EPA standards. This is consistent with § 15(b) which requires compliance with the same applicable EPA standards as a condition to the issuance of original type certificates for engines.

Authority: [Section 232 of the Clean Air Act, as amended December 31, 1970, P.L. 91-604 (42 U.S.C. § 1857f-10), as delegated (36 FR 8733); 40 CFR Part 87 (38 FR 19088); sections 307(c), 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. §§ 1348(c), 1354(a), 1421, and 1423); section 6(c) of the Department of Transportation Act (49 U.S.C. § 1655(c))].

In consideration of the foregoing, Special Federal Aviation Regulation (SFAR) 27 is amended, effective January 1, 1976.

Special Federal Aviation Regulation 27–3

Compliance with EPA Exhaust Emission (Smoke) Standard for JT3D Engines Manufactured on or After January 1, 1978

Adopted: December 21, 1977 **Effective: January 1, 1978**

(Published in 42 FR 64876, December 29, 1977)

SUMMARY: This amendment defines "date of manufacture" for purposes of the rule, establishes a requirement for marking each aircraft engine for which emission standards are prescribed, and ensures compliance with the exhaust emission (smoke) standards issued by the Environmental Protection Agency (EPA) that apply to new Pratt and Whitney JT3D engines manufactured on or after January 1, 1978. The issuance of this amendment is required by the Clean Air Act, as amended.

FOR FURTHER INFORMATION CONTACT:

Emanuel M. Ballenzweig, Assistant Chief, High Altitude Pollution Staff (AEQ-10), Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 425-8933.

SUPPLEMENTARY INFORMATION:

HISTORY

On July 21, 1977, the FAA published Notice No. 77-13 in the FEDERAL REGISTER (42 FR 37413) proposing amendments of the aircraft emissions rules in Special Federal Aviation Regulation (SFAR) 27 in order to ensure compliance with the aircraft emission (smoke) standard issued by the Environmental Protection Agency (EPA) that is effective January 1, 1978. Comments were invited on the proposal.

Under § 232 of the Clean Air Amendments of 1970, Pub. L. 91-604, the FAA has a duty to issue regulations that ensure compliance with all aircraft emissions standards promulgated by EPA under § 231 of the Act, which are currently prescribed in EPA Regulations Part 87 (40 CFR Part 87) issued on July 6, 1973, and published in the FEDERAL REGISTER (38 FR 19038) on July 17, 1973.

Accordingly, on December 26, 1973, the FAA issued Special Federal Aviation Regulation (SFAR) 27, published in the FEDERAL REGISTER (38 FR 35437) on December 28, 1973. The purpose of SFAR 27 is to ensure compliance with aircraft and aircraft engine emission standards and test procedures issued by the EPA in EPA Part 87.

The SFAR, as originally issued, incorporated only those standards and procedures in EPA Part 87 that were effective beginning February 1, 1974. On December 23, 1974, the FAA issued Amendment SFAR 27-1 to SFAR 27 (39 FR 45008; December 30, 1974) which incorporated the fuel venting emission standards in EPA Part 87 that were effective beginning January 1, 1975. A second amendment, SFAR 27-2, was issued on November 23, 1975, and published in the FEDERAL REGISTER on November 28, 1975 (40 FR 55311). That amendment incorporated smoke emission standards in EPA Part 87 applicable to new and in-use aircraft turbofan or turbojet engines designed for subsonic airplanes that have a rated power of 29,000 pounds thrust or greater, effective January 1, 1976.

DISCUSSION OF RULE

As stated above, the FAA, in Notice No. 77–13, proposed to add to SFAR–27 the provisions of EPA Part 87 that apply, beginning January 1, 1978. These provisions apply to engines specified in § 87.21(c) of EPA Part 87 (40 CFR 87.21(c)). That rule provides that the exhaust emissions of smoke from each new Class T3 engine (which, as defined in § 87.1(a) of EPA Part 87, is limited to engines of the JT3D model family) "manufactured" on or after January 1, 1978, shall not exceed a smoke number of 25 (as determined in accordance with the test procedures of EPA Part 87). Only four comments were received. The comments concerned the application of aircraft emission standards to airplanes being exported, and the method of identifying and approving engines. These comments are addressed in the following discussions.

DATE OF "MANUFACTURE"

The Notice proposed to amend §§ 15, 17, 21, and 25 by adding a reference to the January 1, 1978, EPA standards for all engines "manufactured" on and after that date. As stated in the preamble to the Notice, the intent was to make it clear that the date of FAA approval of an engine for installation on an aircraft is the date that the FAA regards an engine as "manufactured" (as that term is used in EPA Part 87). Further review indicates that, in parallel fashion, a foreign manufactured engine should also be regarded as "manufactured" on the date that the foreign country of manufacture issues an approval equivalent to that issued by the FAA. Considering these factors, the word "manufactured," as used in the Notice, is defined in a new § 12. Accordingly, in amended § 15, the phrase "manufactured on or after January 1, 1978" refers to engines which, on or after January 1, 1978, are originally approved by the FAA, or by a foreign country of manufacture, for installation on airplanes. The new definition in § 12 makes it clear that the date of approval of each individual engine, not the date of approval of the type design, is the controlling date. The words "original" and "originally" are used to make it clear that the date that an in-use engine is approved for installation on airplanes, following rebuliding or maintenance, is not relevant. This discussion also applies to the amendments to §§ 17, 21, and 25.

For the same reasons, and consistent with the proposal to express date of "manufacture" in terms of approval dates, § 19 is also amended to make it clear that issuance of an original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent approval by a foreign country of manufacture) is contingent upon compliance with applicable emission standards. This applies with respect to any EPA standard that relates to the date of "manufacture" of an aircraft engine (as defined in § 12), and that is added later to this SFAR, not only the standard being incorporated by this amendment. See also the discussion below concerning the forms of FAA approval.

FORMS OF ENGINE APPROVAL

The Notice proposed to add the words "or other FAA approval for installation of an engine on aircraft" following the reference to "airworthiness approval tag" in § 19. This reflected the fact that FAA approvals of engines are not limited to airworthiness approval tags. Further review of this proposal indicates that all references to airworthiness approval tags can be deleted since they are clearly covered by the broad reference to "FAA approval for installation of an engine on an airplane." In addition, for engines manufactured in a foreign country with which the United States has an agreement for the acceptance of the engine (See § 21.500 of Part 21 of the Federal Aviation Regulations, 14 CFR Part 21), the FAA approval is exercised in the form of FAA acceptance of an approval issued by the country of manufacture. To prevent possible confusion, it is believed that this form of FAA approval should be clearly set forth. Accordingly, the provisions of § 19, as amended, refer to "original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent original approval issued by a foreign country of manufacture . . .)." The word "aircraft" (proposed in the Notice) is changed to "airplane" since the definition of "aircraft" in § 87.1(a)(3) of EPA Part 87 is limited to "airplane."

MARKING OF ENGINES

The Notice proposed to add new paragraphs (b) and (c) to § 19 to require that engines be permanently marked to identify the date of manufacture, and (for noncomplying engines) to require that the identification plate for the engine contain a statement that the "need for emission compliance must be determined before installation." FAA review of comments indicates that the intent of this proposal (which is to facilitate ready identification of engines that should not be installed or operated in airplanes) can be expressed more clearly and achieved with less burden on manufacturers. Several comments indicate concern with the limited space available on an engine for placing identification data and with the proposed statement regarding the need to determine compliance with applicable standards before installation of the engine on an airplane. Some commenters noted that the proposed statement would not indicate the basis for the required determination. The FAA agrees that the rule as proposed would not result in the most efficient use of the available space for marking critical information on an engine. It is believed that the purpose of the proposal can be more efficiently achieved, with less impact on manufacturers, by requiring that the model designation (which is already required to be on the identification plate) correspond to approved type design data indicating whether applicable emission standards are complied with. As adopted, this identification requirement applies only to engines that are covered by FAA emissions regulations that become effective on or after January 1, 1978. It should be noted that, like that proposed in the NPRM, this requirement is not limited to the new JT3D engines being added by this amendment, but also applies to engines subject to any emission standards that are added to SFAR 27 after January 1, 1978. Since a particular engine type may be required to comply with a series of emission standards during a long production run, this provision is intended to allow the installer (such as maintenance personnel and aircraft operators) to readily determine, by reference to the type certificate data for each model designation, whether a particular engine may be installed or operated after the compliance dates prescribed by EPA.

CONTINUING COMPLIANCE

As is the case under the current provisions in SFAR 27 concerning smoke emissions, compliance with the smoke emissions requirements for Class T3 engines manufactured on or after January 1, 1978, may, under this amendment, be shown by equipping the affected engines with approved combustors of a design that has been shown to result in the engine meeting the applicable smoke number, and by maintaining the engines in accordance with applicable airworthiness maintenance requirements. Accordingly, as proposed in the Notice, the January 1, 1978, date is added to § 14(c) and the text of that paragraph is consolidated to eliminate duplication. If additional requirements to detect and prevent deterioration of smoke emissions characteristics during the service life of an engine should become necessary, production line testing of sample engines, periodic testing of in-use engines, or similar regulations necessary to ensure compliance with these standards will be proposed by the FAA in a later rule-making action.

EXPORT AIRCRAFT

One commenter discussed the applicability of SFAR 27 to the exporting of aircraft with standard airworthiness certificates (or their foreign equivalent) for use "exclusively" outside the U.S. when the importing country does not require emission controls The commenter suggested the SFAR 27 be amended to state clearly that it applies only to foreign civil airplanes that are routinely operated within the United States. The commenter stated that the FAA could not make this change to SFAR 27 unless EPA first made a similar change to its Part 87. (A letter requesting such a change has been sent to EPA by the commenter.) The FAA, agrees that if EPA agrees with this request, the appropriate means of narrowing the applicability of SFAR 27, with respect to EPA standards already incorporated in it, would be to change EPA Part 87 by narrowing the application of the standards for aircraft emissions with respect to certain clearly specified classes of operation which are determined by EPA not to significantly affect air quality inside the United States. The FAA will continue to work with EPA to resolve this issue, since under Section 232 of the Clean Air Act, the Department of Transportation must "insure compliance with all standards" issued by EPA. In this *connection, § 3 of SFAR 27* provides that, if EPA relaxes Part 87, that relaxation is incorporated in the SFAR automatically, without further action by FAA.

EFFECTIVE DATE

As stated above, the requirements of 40 CFR Part 87 that are incorporated in this amendment become effective beginning on January 1, 1978. Section 232 of the Clean Air Act, as amended (42 U.S.C. § 1857–10), requires the FAA to prescribe regulations to ensure compliance with all standards prescribed under § 231 of that Act (42 U.S.C. § 1857f–9) which include the newly incorporated provisions of EPA Part 87. Accordingly, this amendment must be effective no later than January 1, 1978. Good cause, therefore, exists for making this amendment effective in less than 30 days after publication in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal authors of this document are Emanuel M. Ballenzweig, Office of Environmental Quality, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Special Federal Aviation Regulation (SFAR) 27 of the Federal Aviation Regulations is amended, effective January 1, 1978.

(Sec. 232, Clean Air Act, as amended December 31, 1970, Pub. L. 91–604 (42 U.S.C. § 1857f–10), as delegated (36 FR 8733); 40 CFR Part 87 (38 FR 19088); Secs. 307(c), 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348(c), 1354(a), 1421, and 1423; Sec. 6(c) Department of Transportation Act (49 U.S.C. § 1655(c)).)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Special Federal Aviation Regulation 27-4
Compliance With EPA Smoke Emissions Standard for In-Use JT3D Engines

Adopted: October 23, 1980 **Effective: December 1, 1980**

(Published in 45 FR 71960, October 30, 1980)

SUMMARY: This amendment to the FAA airplane emissions rules requires compliance with the aircraft and aircraft engine emissions (smoke) standards for in-use JT3D engines in accordance with the compliance schedule established on October 30, 1979, by the U.S. Environmental Protection Agency (EPA) under 40 CFR Part 87 (44 FR 64266, November 6, 1979). This amendment covers all civil JT3D powered aircraft operated in the United States with a U.S. standard airworthiness certificate (or foreign equivalent). It reflects the EPA's extension of compliance deadlines to be more, though not completely, compatible with the FAA's aircraft operation noise limits rule applicable to certain JT3D-powered aircraft in domestic service (14 CFR Part 91, Subpart E). It requires timely modification by all U.S. foreign operators of in-use JT3D engines manufactured before January 1, 1978, in accordance with a phased compliance schedule. That schedule prescribes intermediate compliance dates of January 1, 1981, and January 1, 1983; with full compliance beginning January 1, 1985. JT3D engines manufactured on or after January 1, 1978, are already required by EPA to meet those engine emission standards. This FAA rulemaking action is required by Section 232 of the Clean Air Act, as amended in 1970 by Pub. L. 91-604 (42 U.S.C. § 1857f-10).

FOR FURTHER INFORMATION CONTACT:

For information concerning enforcement of SFAR 27 which implements 40 CFR Part 87:

Mr. Emanuel M. Ballenzweig, Air Quality Division (AEE-300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; (202) 755-8933.

For information concerning the substance of 40 CFR Part 87:

Mr. George Kittredge, Office of Mobile Source Air Pollution Control, AW455, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; (202) 426-2514.

SUPPLEMENTARY INFORMATION:

REGULATORY HISTORY

On April 14, 1980, the FAA published Notice No. 80-6 (45 FR 25350) proposing to amend SFAR 27, "Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes." That notice proposed amendments to ensure compliance with the EPA emissions standards for in-use JT3D engines. Interested persons were invited to participate in this rulemaking by submitting written comments on the proposed rule. The notice recognized the division of regulatory responsibility between the EPA (under § 231 of the Clean Air Act, as amended, 42 U.S.C. § 1857f-9) and the Secretary of Transportation (under § 232 of that Act, 42 U.S.C. § 1857f-10). Therefore, comments were not requested concerning the substance or the compliance dates of the already final requirements of the EPA's Part 87 that were incorporated in the FAA proposal. Since such comments would involve EPA's regulatory authority, over which the FAA has no control, they should have been submitted directly to the EPA prior to finalization of the most recent amendment to the EPA standards issued on October 30, 1979. Nevertheless, most comments received addressed those issues over which the FAA has no authority. These were referred to the EPA for consideration. All comments received have been given full consideration in the promulgation of this amendment which, after consultation with the EPA, adopts the proposals in Notice No. 80-6 without substantive change.

Under § 232 of the Clean Air Amendments of 1970, Pub. L. 91-604, the FAA must issue regulations to ensure compliance with all aircraft emissions standards promulgated by the EPA under § 231 of the Act. The EPA regulations are currently prescribed under 40 CFR Part 87 originally published in the *Federal Register* on July 17, 1973 (38 FR 19088). Accordingly, on December 26, 1973, the FAA issued Special Federal Aviation Regulation (SFAR) 27, (38 FR 35437, December 28, 1973). The purpose of SFAR 27 is to

339-942 0 - 81 - 7

fulfill FAA statutory responsibilities to ensure compliance with aircraft and aircraft engine emissions standards and related test procedures under EPA's (40 CFR) Part 87.

SFAR 27, as originally issued, governed compliance of only those standards and procedures in EPA Part 87 that were effective beginning February 1, 1974. On December 23, 1974, the FAA amended SFAR 27 (Amdt. SFAR 27-1: 39 FR 45008, December 30, 1974) to regulate compliance with the fuel venting standards in EPA Part 87 that became effective January 1, 1975. Amendment SFAR 27-2, effective January 1, 1976 (40 FR 55311, November 28, 1975), governs compliance with smoke emissions standards in EPA's Part 87 applicable to new and in-use aircraft turbofan or turborjet engines with a rated power of 29,000 pounds thrust or greater, that are designed for operation on subsonic airplanes. A third amendment (Amdt. SFAR 27-3; 42 FR 64876, December 29, 1977) regulates compliance of JT3D engines manufactured on and after January 1, 1978, with smoke emissions standards in EPA's Part 87.

DISCUSSION OF THE AMENDMENT

Overview

This amendment to SFAR-27, pursuant to the Clean Air Amendments of 1970, requires compliance with the EPA's Part 87 exhaust emission (smoke) requirements that apply to "in-use" JT3D engines on EPA's prescribed phased compliance schedule (40 CFR 87.31(c)). It provides that the exhaust emissions of each in-use Class T3 engine, specified under § 87.1(a) as "gas turbine engines of the JT3D Model family," may not exceed a smoke number of 25, when measured in accordance with the related test procedures under EPA's Part 87. To meet these smoke requirements for Class T3 engines requires a retrofit or a replacement of the combustor in JT3D engines manufactured before January 1, 1978. Those manufactured on or after that date must already comply.

That provision of EPA's Part 87 affecting in-use JT3D engines was originally scheduled to take effect January 1, 1978. As a result of a petition from the Air Transport Association of America (ATA), the EPA relaxed the compliance schedule to permit 90 percent compliance by September 1, 1980, with full compliance by September 1, 1981 (41 FR 54861, December 15, 1976). Subsequent to an FAA suggestion, the EPA again amended the compliance schedule (44 FR 64266; November 6, 1979). The new schedule coincides with 14 CFR 91.305, the FAA's phased schedule for noise compliance by U.S. operators of JT3D-powered airplanes operated domestically under FAR Parts 121 and 135 (43 FR 12815, March 24, 1978). It should be noted that the phased compliance schedule in EPA's Part 87 applies to all civil JT3D-powered airplanes that operate in the United States under a U.S. standard airworthiness certificate (or foreign equivalent). Thus, it applies equally to U.S. and foreign operators of those airplanes with JT3D engines. The compliance schedule precribed under 40 CFR 87.31(c) is as follows:

"(c) Exhaust emissions of smoke from each in-use aircraft gas turbine engine of Class T3 shall not exceed a smoke number of 25. Each operator shall achieve compliance in accordance with the following schedule:

(1) One quarter of its operational Class T3 engines by January 1, 1981.

(2) One half of its operational Class T3 engines by January 1, 1983.

(3) All of its operational Class T3 engines by January 1, 1985.

"This compliance schedule notwithstanding, Class T3 engines which do not meet a smoke number of 25 may continue to be operated if, under an FAA approved plan, replacement engines or replacement airplanes have been ordered and are scheduled for delivery prior to January 1, 1985, but not after the dates specified in the plan. For the purpose of this paragraph, replacement engines are engines of a class different from Class T3 and have been shown to meet the smoke emission standards in this part appropriate to their class."

This amendment to SFAR 27 requires compliance in accordance with 40 CFR 87.31(c) and, thus, the FAA has no discretion in establishing or modifying the rule in areas such as (1) the regulated persons, engines, or airplanes; (2) the emissions standards; or (3) the compliance schedule. Many commenters to the notice opposed the unilateral actions being taken by the United States that they considered to be counter to International Civil Aviation Organization (ICAO) and European Civil Aviation Conference (ECAC) positions which oppose emissions standards that require modification to in-service aircraft engines. The EPA's response to those comments is contained in the preamble of the final

rulemaking taken by EPA with regard to JT3D smoke emissions standards (44 FR 64266, November 6, 1979). The EPA rejected those arguments at that time because that rulemaking represented a delay in the effective dates of a standard that had been promulgated in 1973 which antedated any positions taken by ICAO Committees or by the ECAC. Other commenters considered the phased compliance schedule to be burdensome and wanted a rule change, a waiver, or an exemption for particular types of operations such as travel clubs, international operations, etc. The EPA has indicated that they do not plan to change the applicability or the schedule for compliance with the JT3D smoke standards. They have rejected requests for a rule change or exemptions based upon such considerations as (1) limited operations that do not represent a large environmental burden, (2) disparity of emissions and noise compliance schedules for an operator, and (3) economic burden and lack of air quality justification. The EPA's stated position on each respective point may be summarized as follows: (1) the operations of each operator of aircraft powered by JT3D engines may contribute little to environmental degradation, but the total environmental burden, that is composed of many such operations, has to be reduced if the nation's air quality goals are to be achieved; (2) the compliance schedule has been delayed twice and no adequate justification has been shown for further changes in the schedule since a schedule based on category of operators or operations would be discriminatory; and (3) the EPA conducted the required economic and air quality analyses when it established the standard and schedule.

Concerning requests for waivers or exemptions, the EPA has indicated that as a policy it does not grant exemptions from the provisions of Federal emissions standards, except under the most extenuating circumstances. The Clean Air Act makes no mention of exemptions in Section 231 pertaining to aircraft emissions. The only provision of this nature in 40 CFR Part 87 appears in Subpart J, which was added to the basic standards in December 1973, (38 FR 35000) to provide a mechanism for operators to request temporary delays in the compliance dates for the fuel venting and JT8D smoke retrofit standards after several foreign airlines experienced difficulty in acquiring and arranging for installation of the necessary replacement parts. The JT3D smoke retrofit program is not presently covered by Subpart J, because the compliance date that was established (and since extended) was set to allow liberal time for development and certification of the necessary replacement parts, and it was not envisioned that any operators would need special delays to meet the compliance schedule. However, should that be the case, the EPA has indicated that it will consider extending the provisions of Subpart J, "Temporary Exemption from Air Emissions Standards," to include the JT3D smoke retrofit program.

For the information of any interested parties, the provisions of Subpart J which are most relevant to potential applicants for temporary EPA exemptions are as follows:

§ 87.101 Application for temporary exemption.

(a) The Administrator of the Environmental Protection Agency may grant to any aircraft or aircraft engine temporary exemption from any applicable standard under § 87.11(a) or § 87.31(a), provided that the owner or operator of such aircraft or aircraft engine demonstrates:

(1) All good faith efforts to achieve compliance with such standards.

(2) Inability to comply with such standard due to circumstances beyond his control, and

(3) A plan by which he will achieve such compliance in the shortest time which is feasible.

(b) Applications for temporary exemption from the requirements of § 87.31(a) shall be submitted in duplicate to the Administrator of the Environmental Protection Agency and shall contain the following information:

(1) The name and address of the applicant,

(2) The standard or requirement from which temporary exemption is requested,

(3) The number of aircraft or aircraft engines subject to the requirement for which a temporary exemption is requested,

(4) The efforts made by the applicant to accomplish compliance, including ordering of equipment and scheduling of maintenance work, and the dates of these efforts,

(5) A detailed statement of reasons why the applicant will not be in compliance when the standard or requirement becomes effective,

(6) The name of the equipment supplier and/or the name of the firm retained to perform the maintenance work,

(7) The applicant's proposed timetable for installation of equipment and obtaining necessary approvals for each aircraft or aircraft engine for which temporary exemption is requested, and

(8) The name of the person responsible for accomplishing compliance according to the timetable proposed by the applicant.

(c) Prior to taking action on an application for temporary exemption, the Administrator shall consult with the Secretary of Transportation. A copy of the applicant's request should be submitted by the applicant to the Secretary of Transportation.

(d) The Administrator shall publish in the *Federal Register* the name of the owner or operator to whom a temporary exemption is granted and the period of such exemption.

(e) No state or political subdivision thereof may attempt to enforce a standard respecting fuel venting or smoke emissions from an aircraft or engine if such aircraft or engine has been granted an exemption from such standard."

December 15, 1976, was the effective date for the EPA rulemaking that first extended the compliance date for smoke standards applicable to JT3D engines. The extension was predicated on EPA's determination that a means of achieving compliance had been developed, was completing service evaluation, and would be available for installation beginning in the spring of 1978. Since those operators contemplating operation of JT3D-powered airplanes after 1980 have been given adequate time to order retrofit kits (and any required tooling) or new combustors, the EPA has indicated that it will not consider favorably requests for temporary delays in compliance that do not demonstrate that a conscientious effort was made to comply with the requirements. Purchasers of noncomplying aircraft subsequent to December 15, 1976, should not expect special considerations by the EPA simply because they were ignorant of the legal emissions requirements.

As provided in § 9 of SFAR 27, should the EPA act through rule or interpretations to modify the compliance requirements, these actions would be reflected in FAA's enforcement activities, as appropriate.

DISCUSSION OF COMMENTS AND THE RULES

The following is a discussion of pertinent portions of the proposal to SFAR 27 (Notice No. 80–6) and any comments related to the subject matter covered.

Local Regulations

Commenters representing international air carriers expressed concern that some U.S. airports might attempt to apply more stringent regulations than those imposed by the Federal Government. That concern is unfounded. Section 233 of the Clean Air Act effectively prohibits such action as it states that no State or political subdivision may adopt or attempt to enforce any standard concerning emissions of air pollutants from any aircraft or aircraft engine unless that standard is identical to the Federal standards.

Operational Engines

Though the term "operational engines" is not defined in 40 CFR Part 87, the previous quote from § 87.31(c) indicates that operational Class T3 engines are a subset of the in-use aircraft gas turbine engines of Class T3. (The term "in-use aircraft gas turbine engine" is defined in Part 87 as an aircraft gas turbine which is in service.) For purposes of enforcement, "operational Class T3 engines" include only those engines installed on airplanes that operate in the United States. Therefore, spare engines will not be monitored, though they will have to come into compliance at about the same rate as

operational engines in order to keep an operator's airplane fleet in compliance when complying operational engines need to be removed. The EPA has indicated that this enforcement approach is consistent with 40 CFR Part 87.

Replacment Airplanes

The EPA has defined the term "replacement engines" in § 87.31(c) where the term "replacement airplane" was introduced, but did not define the latter term because the EPA assumed that an analogous definition was implied. For purposes of enforcement, a "replacement airplane" is an airplane powered by engines, other than Class T3, that meets applicable smoke emission requirements. The EPA has indicated that this approach is consistent with 40 CFR Part 87, as interpreted by the EPA.

Achieving Compliance

Pratt and Whitney (P&W) Service Bulletin No. 4694 describes the methods and parts for modification of in-use JT3D engines to provide a burner configuration that results in smoke density levels consistent with the EPA maximum limit. One commenter noted "unsatisfactory results" from such a burner configuration, but the commenter did not provide any information to support that assertion. The burner retrofit configuration in the referenced Service Bulletin (also described in the FAA-approved Engineering Change 284890) has been installed in a JT3D-7 engine and shown to produce maximum smoke numbers well below the standard of 25 during separate test runs. In addition, the approved modification has undergone several thousand cycles of engine testing, several airline tests, and more than 150,000 hours of service tests. Another comment stated that "the burner modifications necessary to reduce smoke emissions are believed to have been sufficiently service tested for performance and durability." The FAA agrees. Based on these tests, the burner retrofit configuration described in Service Bulletin 4694 is considered to be in conformance with the EPA standards. The EPA, therefore, regards modification of a JT3D engine in accordance with the above Service Bulletin to be satisfactory evidence of compliance with 40 CFR Part 87, if that engine is properly maintained.

Thus, in a fashion similar to that used previously in SFAR 27 to ensure compliance by in-use JT8D engines, this amendment incorporates by reference the P&W Service Bulletin No. 4694 in § 14 of the SFAR. The Service Bulletin is available for examination in the FAA Rules Docket, AGC-204, Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591, or may be obtained from Pratt and Whitney Aircraft Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. In addition, to ensure that the incorporated materials are reasonably available to interested persons, it will also be available at the locations listed in the new § 10(e). The incorporation by reference has been approved by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR Part 51. It should be noted that those incorporated documents describe merely one acceptable means of compliance for an in-use JT3D engine to achieve the EPA smoke standards. Any other means, consistent with § 11 of the SFAR, that is demonstrated by the prescribed test procedures of EPA's Part 87 to limit engine emissions below smoke number 25 will be accepted as compliance with the provisions of § 87.31(c) that are incorporated in this amendment to SFAR 27.

P&W Service Bulletin 2417, which was incorporated by reference in SFAR 27, has been cancelled by Pratt and Whitney and has been incorporated in parts catalogs. Since retrofit in accordance with P&W Service Bulletin 2531 is sufficient to meet JT8D smoke requirements without reference to Service Bulletin 2417 or Engineering Change 197707 (which provide the details needed for conducting a service evaluation of the smoke reduction chamber configuration for JT8D engines), the incorporation by reference to P&W Service Bulletin 2417 and P&W Engineering Change 197707 is no longer needed, and has been deleted from SFAR 27.

Airplanes and Engines Covered by Replacement Plans

JT3D engines or JT3D-powered airplanes that are scheduled to be replaced with complying engines or airplanes before 1985 may continue to be operated after the 1981 and 1983 interim dates in the phased compliance schedule, if those engines or airplanes are

339-942 O - 81 - 8

covered by an FAA-approved replacement plan (§ 87.31(c)). Thus, an operator may elect to submit to the FAA for approval a plan under which replacement engines (engines of a class different than Class T3 that have been shown to meet EPA smoke emission requirements) or replacement airplanes (airplanes powered by engines of a class different than Class T3 engines that meet applicable EPA smoke emission requirements) have been ordered and are scheduled for delivery prior to January 1, 1985. If the plan is approved, those engines and airplanes included in the plan do not have to comply with the phased compliance schedule for Class T3 engines until January 1, 1985, or an earlier date specified in the plan. Those approved replacement plans may constitute a compliance strategy for smoke emissions even if a replacement plan is not needed for the FAA's operating noise limits rule. The noise rule does not require compliance before 1985 for Part 91 and 123 operations and for airplanes engaged in foreign air commerce in the United States under an approved method of apportionment. Thus, some operators may wish to request approval of a replacement plan for smoke emission compliance purposes only. Replacement plans for noise that are submitted by operators under 14 CFR 91.306 which have FAA approval may, upon request, serve as FAA-approved plans for the EPA smoke emissions standards as well.

Under this amendment, any replacement plan submitted solely for smoke emissions purposes should be submitted to FAA's Office of Environment and Energy and should, at a minimum, include (1) the operator's name and address, (2) the name, title, address and phone number of the person who submitted the plan, (3) the operator's current and projected inventory of JT3D engines (by serial number) and JT3D-powered airplanes (by aircraft registration number and airplane serial number) covered by this SFAR, (4) the verifiable order and schedule for replacement of those engines or airplanes, and (5) certification that the plan is true and complete (under penalty of 18 U.S.C. 1001). If a replacement plan strategy is selected, the plan should be submitted to the FAA by December 1, 1980, to provide sufficient time for the FAA approval process to be completed prior to the first interim compliance date, January 1, 1981. Later submissions might not be approved before compliance is required, and will not be a basis for relief from compliance with the rule without EPA remedial action.

The approval process for replacement plans includes consideration of whether the plan would provide benefits similar to the emissions reduction that would be achieved through a phased retrofit program without replacement. Thus, a plan submitted by an operator with a large JT3D-powered fleet may be unacceptable if it delays replacement of a substantial portion of its fleet until December 1984, and does not provide a compelling reason for such an inordinate delay. In considering approval of specific replacement plans for emissions submitted by those operators required to prepare compliance plans for noise (under 14 CFR 91.308) the approval process of replacement plans for emissions will include a comparison between plans for consistency and differences. While some minor differences might be expected since the objectives are not the same, each operator's fleet projections and compliance strategy should be traceable among any different plans the operator submits. Any unplanned changes in an operator's equipment inventory or plans for replacement of aircraft or engines covered by this SFAR will necessitate an update in the replacement plan.

Several commenters said that even though most operators will be replacing their JT3D-powered aircraft, their filing or replacement plans would place an unnecessary administrative burden on the FAA. These commenters would prefer an exemption or waiver. This option was discussed earlier and it was indicated that FAA has no authority to grant exemptions or waivers from the EPA standards (see § 9(a) of SFAR 27). Since EPA has given operators the option of submitting replacement plans, FAA will provide the necessary review of these plans.

Replacement Credit

"Replacement credit" permits the operator of an airplane (or engine) covered by an FAA-approved replacement plan to continue to operate that airplane (or engine) until 1985 or an earlier date specified in the plan. For compliance purposes, each airplane or engine scheduled for replacement in an FAA-approved plan will be counted as if it were in compliance and any airplane or engine that has been replaced by each interim compliance date will be counted in the fleet count for that date.

Retirement Credit

On December 15, 1976, the EPA announced (43 FR 54861) that compliance with its smoke emissions standards for Class T3 engines was technically achievable. One of the options available to operators at that time was retirement of aircraft on which Class T3 engines were installed (an option still available). The retirement option was not addressed in the preamble to the proposal. Since "retirement credit" is applicable under the FAA's operating noise rule and achieves the air quality goals of EPA, the concept of retirement credit has been accepted by the EPA as a compliance strategy consistent with Part 87. Permitting the use of this concept increases the consistency between compliance with the Part 91 noise requirements and the SFAR emissions requirements. Retirement credit permits the operators of airplanes covered by 40 CFR 87.31(c) to count the associated Class T3 operational engines as complying engines if those airplanes are retired from any future operation in the United States without replacement after December 15, 1976. This is similar to the procedures that operators are allowed to follow in fulfilling the requirements of 14 CFR 91.305, though the earliest date for emissions and noise retirement credit are different (December 15, 1976 vice January 1, 1977). Retirement credits only apply to engines installed on airplanes that are retired; spare engines are not eligible for such credit. The credit is not available until shown to be a true and complete retirement from U.S. service without replacement. If an airplane or engine for which retirement credit has been given is replaced or operated in the United States even by another operator, the credit is, of course, forfeited.

Operators electing to take retirement credit should certify (under penalty of 18 U.S.C. 1001) the following information in writing to the FAA's Director of Environment and Energy before December 1, 1980 for 1981 compliance, and December 1, 1982 for 1983 compliance purposes: (1) the operator's name and address, (2) the name, title, address and phone number of the person submitting the information, (3) the date of the submission, (4) a statement that the operator is eligible for "retirement credit" in meeting compliance on the interim dates, (5) the operator's inventory of JT3D-powered airplanes and engines covered by this SFAR (by aircraft registration number, airplane serial number, and engine serial number) with an indication of those airplanes that have been retired after December 15, 1976, including the date when each listed airplane was retired from service in the United States without replacement.

Compliance Schezule (Interim Compliance Dates)

The EPA has indicated that the proportions prescribed by 40 CFR 87.31(c) for interim compliance dates apply to the operational engines and not the individual JT3D-powered airplanes. Specifically, unless an operator has FAA approval for a replacement plan or has elected to use retirement credit before the date specified in the previous discussion, the proportions apply to the total number of operational engines owned or controlled by each operator on, and after, each interim compliance date. If replacement or retirement credit is selected by an operator, these factors are considered in calculating the proportions on the interim compliance date.

In general,oeach proportion is the quotient of the number of "complying operational engines" divided by the total number of operational engines" in the operator's fleet. The number of "complying operational engines" is (the sum of) the number of any operational Class T3 engines that meet the EPA smoke emissions standard, plus the number of any Class T3 engines installed on aircraft that were retired completely from U.S. service without replacement between December 15, 1976 and the interim date, plus the number of any operational engines of Class T3 by an FAA-approved replacement plan. The "total number of operational engines" in the fleet is (the sum of) the number of all operational engines owned or controlled on the interim compliance date, plus the number of any Class T3 engines installed on aircraft retired completely from U.S. service without replacement between December 15, 1976 and the interim date, plus the number of any engines of Class T3 covered by an FAA-approved replacement plan that have been replaced by the interim date.

Comments were received from operators which have no interim noise compliance dates and object to interim compliance dates for smoke emissions. One aspect of their objection was the likelihood that aircraft would be retired or replaced by 1985 to meet the FAA noise rule, making engine modifications for earlier emissions compliance

dates an uneconomic alternative. The EPA has considered the argument and, as indicated earlier, considers it discriminatory to establish a different set of compliance dates for different classes of operators. Another aspect of that concern is summarized in the comment from the International Air Transport Association which said:

> "There are significant real difficulties which are equally applicable to the intermediate partial compliance requirements of 40 CFR 87. We understand that, in computing the number of engines required to be modified, reference would probably be made by the FAA to the Operations Specifications of the airline in question. In deciding which aircraft to list in its Operations Specifications the airline could list the registration numbers of just the number of aircraft of the type(s) it operates in U.S. service theoretically needed to support these services. This would minimize the number of engines required to be modified but could restrict the ability of the airline to obtain maximum utilization of the whole fleet of the type(s) concerned. Alternatively, the airline could reduce this constraint by listing the registration numbers of more than this theoretical minimum number of aircraft (up to the whole of its fleet of the type(s) concerned), but clearly this would increase the number of engines required to be modified. Moreover, it would be unreasonable to expect an airline to modify more engines than required for service to the U.S. when no other country requires a similar modification."

The above comment correctly assumes that aircraft listed on an operations specification will be considered to represent those aircraft that a foreign operator has determined to be those operating in the United States (without regard to the frequency of operations). Whether the operator chooses to minimize the number of airplanes operated into the United States or to increase operational flexibility by designating more airplanes for U.S. operations is a matter best reserved to the operator. Balancing these factors should be a prerogative of the operator and should not be dictated by the rule. Those who have listed more than the minimum number of aircraft (which is a typical approach) may be eligible for retirement credit for those aircraft removed without replacement from any future U.S. service.

As indicated in SFAR 27 § 9(a), and as discussed earlier, the FAA cannot grant variances from the prescribed schedule established by the EPA. All comments on that schedule have been referred to the EPA for consideration. Operators are reminded that they should take the necessary actions to meet the phased compliance schedule. Several comments mentioned lack of availability of retrofit kits, lack of tooling, and lack of personnel to perform the modifications. EPA has indicated that such conditions might be the basis for a request to the EPA for a temporary delay in compliance, if the operator can demonstrate that good faith attempts have been made since December 15, 1976, to order retrofit kits and tooling and to obtain maintenance personnel (or a maintenance organization) to perform the retrofitting of engines and that such attempts have been unsuccessful. (See 40 CFR 87.101).

Pratt and Whitney Aircraft indicated on July 3, 1980, that it originally planned to produce sets of retrofit parts sufficient for 1000 engines, However, they decided to limit their production run to 100 sets due to a lack of orders. As of that date they had orders for 93 sets (mostly from one operator) with seven sets still available. The lead time for additional sets of parts is sixteen months. They have had no orders for tooling and did not believe that any operator or maintenance shop has developed the tooling capability. The lead time for tooling from P&W is about one year, although maintenance shops can fabricate their own tooling sooner. From those indications, no serious attempt has bven made by any operator to achieve compliance through the retrofit option.

Some comments indicated that it will be extremely difficult, if not impossible, for the FAA to determine the degree of compliance, particularly by foreign operators. The FAA does not agree. Its monitoring program will include field examinations and review of documentation such as operations specifications, airplane flight manuals, noise compliance plans, etc. The compliance plan is the only document that is not applicable to foreign operators. The FAA program should be sufficient for the purposes of ensuring that operators meet the compliance schedule. If, based on experience, additional means are found to be necessary, the FAA will move promptly to develop and implement additional mechanisms to ensure compliance.

Certification and Engine Approval Actions

Sections 15, 17, 19, and 21 of SFAR 27 have been revised to reflect the EPA requirements applicable to in-use JT3D engines. Those revisions are unchanged from the proposed amendment. No commenter addressed the issues presented.

Since the EPA amendment to § 87.31(c) concerning in-use JT3D engines affects the continued operation of airplanes powered by JT3D engines, it raised questions concerning the need and the appropriateness of including references to in-use JT3D engines in the certificate actions covered by §§ 15, 17, and 21 and the approval actions in § 19. After reviewing these current provisions in light of the EPA amendment, it would be misleading to issue certificates or make approvals after the final compliance date for engines that cannot legally be operated in the United States. This amendment is consistent with the treatment given Class T2 and T4 engines and T3 engines manufactured on and after January 1, 1978. However, operation of non-complying, in-use JT3D engines manufactured before January 1, 1978, is not completely prohibited until January 1, 1985. The EPA's 1981 and 1983 interim compliance dates for in-use JT3D engines do not apply to certificate and approval actions for JT3D engines manufactured before January 1, 1978. Thus, if the FAA set any cutoff date for certifications and approvals prior to January 1, 1985, (the final compliance date in EPA's Part 87 that applies to all JT3D engines) would be more stringent than the EPA rule. This amendment uses that date as the cutoff date for further certificate and approval action, regardless of the date of application.

As each Class T3 engine is modified to meet the smoke emissions standards, the model designator on the engine identification plate must be modified in accordance with P&W Service Bulletin 4694 in order to comply with § 19(b) of SFAR 27.

Operation

Section 25 has been amended to reflect EPA's Part 87 phased compliance schedule for in-use JT3D-powered airplanes operated in the United States. Comments recommending that FAA delete the interim compliance dates cannot be acted upon. As discussed earlier, such a change is outside the scope of FAA's authority.

Codification

The proposal indicated that consideration is being given to codifying permanently the FAA airplane emissions regulations (SFAR 27) under Title 14 of the Code of Federal Regulations (CFR). There are several options being considered, including (1) redistributing the provisions of SFAR 27 among the various parts of the code as appropriate, e.g., Part 21, Part 33, Part 45, Part 91, etc., and (2) continuing to provide a single code unit for engine emissions by establishing a new Part in Title 14, e.g., Part 34, with references to other affected parts. Three commenters supported the desirability of permanent codification and none opposed such action. One commenter suggested that Part 33 "Airworthiness Standards: aircraft engines" be amended to include the provisions of SFAR 27. The other commenters suggested permanent codification in a single separate unit. (One suggested numbering it Part 34.) The FAA is continuing its review of the issues before taking action to modify the form (not substance) of the regulation.

ADOPTION OF THE AMENDMENT

Accordingly, 14 CFR Chapter I, Special Federal Aviation Regulation (SFAR) 27 is amended, effective December 1, 1980.

(Sec. 232, Clean Air Act, as amended December 31, 1970, PL. 91-604 (42 U.S.C. § 1875f-10) as delegated (36 FR 3733); 40 CFR Part 87; Secs. 307(c), 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348(c), 1345(a), 1421, and 1423; Sec. 6c, Department of Transportation Act (49 U.S.C. § 1655(c).)

NOTE.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the first person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

NOTE.—The incorporations by reference contained in this amendment were approved by the Director of the Federal Register under 5 U.S.C. § 552(a) and 1 CFR Part 51 on August 18, 1980.

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Special Federal Aviation Regulation 27

Fuel Venting and Exhaust Emission Requirements For Turbine Engine Powered Airplanes

§ 1 Applicability.

(a) *U.S. Airplanes.* This Special Federal Aviation Regulation (SFAR) applies to civil airplanes that are powered by aircraft gas turbine engines of the classes specified herein and that have U.S. Standard Airworthiness Certificates.

(b) *Foreign airplanes.* Pursuant to the definition of "aircraft" in § 87.1(3) of EPA Part 87, this SFAR applies to civil airplanes that are powered by aircraft gas turbine engines of the classes specified herein and that have foreign airworthiness certificates that are equivalent to U.S. Standard Airworthiness Certificates. This includes only those foreign civil airplanes that, if registered in the United States, would be required by applicable Federal Aviation Regulations to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane.

Pursuant to § 87.3(c) of EPA Part 87, this SFAR does not apply where inconsistent with an obligation assumed by the United States to a foreign country in a treaty, convention, or agreement.

§ 3 Relation to EPA Part 87.

(a) Reference in this regulation to EPA part 87 refer to Title 40 of the Code of Federal Regulations, Chapter I—Environmental Protection Agency, Part 87—Control of Air Pollution from Aircraft and Aircraft Engines (40 CFR Part 87), issued on July 6, 1973, and published in the Federal Register (38 FR 19088) on July 17, 1973.

(b) This SFAR contains regulations to ensure compliance with certain standards in Environmental Protection Agency (EPA) Part 87. If EPA takes any action, including the issuance of an exemption or issuance of a revised or alternate procedure, test method, or other regulation, the effect of which is to relax, or delay the effective date of, any provision of EPA Part 87 that is made applicable to an aircraft under this SFAR, the new, relaxed EPA requirement, upon its effective date, is incorporated by reference in this SFAR and supersedes the provisions of this SFAR that are based on the provisions of EPA Part 87 that were relaxed by such action.

(c) Unless otherwise stated, all terminology and abbreviations in this SFAR that are defined in EPA Part 87 have the meaning specified in that Part, and all terms in EPA Part 87 that are not defined in that Part but that are used in this SFAR have the meaning given them in the Clean Air Act, as amended by Public Law 91-604.

(d) All interpretations of EPA Part 87 that are rendered by EPA also apply to this SFAR.

§ 5 Additional EPA approvals and procedures.

(a) If EPA, under § 87.3(a) of EPA Part 87, approves or accepts any testing and sampling procedures or methods, analytical techniques, and related equipment not identical to those specified in EPA Part 87, this SFAR

requires a showing that such alternate, equivalent, or otherwise nonidentical procedures have been complied with, and that such alternate equipment was used to show compliance, unless the applicant elects to comply fully with EPA Part 87.

(b) If EPA, under § 87.5 of EPA Part 87, prescribes special test procedures for any aircraft or aircraft engine that is not susceptible to satisfactory testing by the procedures in EPA Part 87, this SFAR requires a showing that those special test procedures have been complied with.

(c) Wherever EPA Part 87 requires agreement, acceptance, or approval by the Administrator of EPA, this SFAR requires a showing that such agreement or approval has been obtained.

§ 7 Relation to State and local regulations.

(a) Pursuant to 42 U.S.C. 1857 f-11, no state or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions of any air pollutant from any aircraft or engine thereof unless that standard is identical to a standard made applicable to the aircraft by the terms of this SFAR.

(b) If EPA, by regulation or exemption, relaxes a provision of EPA Part 87 that is implmented in this SFAR, no state or political subdivision thereof may adopt or attempt to enforce the terms of the SFAR that are superseded by the relaxed requirement.

(c) Consistent with § 87.6 of EPA Part 87, if the FAA Administrator determines that any emission control regulation cannot be safely applied to an aircraft, that provision may not be adopted or enforced, against that aircraft, by a state or political subdivision thereof, even if it is in this SFAR.

(d) If any provision of this SFAR is rendered inapplicable to a foreign aircraft as provided in § 87.3(c) of EPA Part 87, and § 1(b) of this SFAR, that provision may not be adopted or enforced against that foreign aircraft by a state or political subdivision thereof.

§ 9 Petitions for rule making or exemption.

(a) Notwithstanding Part 11 of the Federal Aviation Regulations, all petitions for rule making or exemption involving either the substance of an emission standard or test procedure prescribed by EPA that is incorporated in this SFAR, or the compliance date for such standard or procedure, must be submitted to EPA. Information copies of such petitions are invited by the FAA.

(b) Petitions for rule making or exemption involving provisions of this SFAR that do not affect the substance or the compliance date of an emission standard or test procedure that is prescribed by EPA are subject to Part 11 of the Federal Aviation Regulations.

[§ 10 Incorporation by reference.

[(a) *General.* This SFAR prescribes certain standards and procedures which are not set forth in full text in the rule. Those standards and procedures are hereby incorporated and are approved for incorporation by reference by the Director of the Federal Register under 5 U.S.C. § 552(a) and 1 CFR Part 51.

[(b) *Changes to incorporated matter.* Incorporated matter which is subject to subsequent change is incorporated by reference according to the specific reference and to the identification statement. Adoption of any subsequent change in incorporated matter that impacts compliance with standards and procedures is made under of 14 CFR Part 11 and 1 CFR Part 51.

[(c) *Identification statement.* The complete title or description which identifies each published matter incorporated by reference in this SFAR is as follows:

[(1) Pratt and Whitney Service Bulletin 2531, Revision No. 10, dated December 28, 1972: containing instructions on incorporation of a combustion chamber assembly configuration for JT8D engines which reduces visible smoke emissions.

[(2) Pratt and Whitney Service Bulletin 4694, Revision No. 2, dated May 22, 1979: containing instructions, parts list, and manpower requirements for providing a burner configuration for JT3D engines that reduces smoke density levels to meet EPA standards, and containing new model designations for complying engines.

[(d) *Availability for distribution.* Operators affected by portions of this SFAR concerning in-use Class T3 and Class T4 engines normally receive the referenced documents from the manufacturer, Pratt and Whitney Aircraft, when issued. Copies of Service Bulletins may be obtained (without cost) upon request to Pratt and Whitney Aircraft, Division United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108.

[(e) *Availability for inspection.* A copy of each publication incorporated by reference in this SFAR is available for public inspection at the following locations:

[(1) FAA Office of the Chief Counsel, Rules Docket, Room 916, Federal Aviation Administration Headquarters Building, 800 Independence Avenue, SW., Washington, D.C.

[(2) Deapartment of Transportation, Branch Librarby, Room 930, Federal Aviation Administration Headquarters Building, 800 Independence Avenue, SW., Washington, D.C.

[(3) The respective offices of the Federal Aviation Administration as follows:

[(i) New England Regional Office, 12 New England Executive Part, Burlington, Massachusetts.

[(ii) Eastern Regional Office, Federal Building John F. Kennedy (JFK) International Airport, Jamaica, New York.

[(iii) Southern Regional Office, 3400 Whipple Street, East Point, Georgia.

[(iv) Great Lakes Regional Office, 2300 East Devon, Des Plaines, Illinois.

[(v) Central Regional Office, 601 East Twelfth Street, Kansas City, Missouri.

[(vi) Southwest Regional Office, 4400 Blue Mound Road, Fort Worth, Texas.

[(vii) Rocky Mountain Regional Office, 10255 East 25th Avenue, Aurora, Colorado.

[(viii) Northwest Regional Office, FAA Building, 9010 East Marginal Way South, King County International Airport (Boeing Field), Seattle, Washington.

[(ix) Western Regional Office, 15000 Aviation Boulevard, Hawthorne, California.

[(x) Alaskan Regional Office, 632 Sixth Avenue, Anchorage, Alaska.

[(xi) Pacific-Asia Regional Office, 1833 Kolakoua Avenue, Honolulu, Hawaii.

[(xii) Europe, Africa and Middle East Office, 15 Rue de la Loi, 1030 Brussels, Belgium.

[(xiii) FAA Representative, U.S. Embassy, Corner Avenidas Inca Garcillaso de la Vega & Espana, Limu, Peru.

[(xiv) FAA Representatives, Office of U.S. Consulate General, Avenida Presidente Wilson, 147 Rio De Janeiro, Brazil.

[(4) The Office of the Federal Register, Room 8401, 1100 "L" Street, NW., Washington, D.C.

§ 11 Compliance with airworthiness regulations.

It must be shown that the airplane meets the airworthiness regulations constituting the type certification basis of the airplane under all conditions in which compliance with this SFAR is shown.

§ 12 Date of manufacture.

As used in the SFAR, unless EPA Part 87 or the Clean Air Act, as amended, require otherwise, the date on which an aircraft engine is "manufactured" is the date on which that individual engine is originally approved by the FAA, or by a foreign country of manufacture, for installation on an aircraft.

§ 13 Engine classes and test configuration.

(a) Consistent with § 3(c) of this SFAR, the following definitions in § 87.1 of EPA Part 87 apply:

(1) "Aircraft engine" means a propulsion engine which is installed in or which is manufactured for installation in an aircraft.

(2) "Class T2" means turbofan or turbojet aircraft engine except engines of Class T3, T4, and T5 of rated power of 8,000 pounds thrust or greater.

(3) "Class T3" means aircraft gas turbine engines of the JT3D model family.

(4) "Class T4" means aircraft gas turbine engines of the JT8D model family.

(5) "Class T5" means aircraft gas turbine engines for propulsion of aircraft designed to operate at supersonic speeds.

(6) "Class T1" means all aircraft turbofan or turbojet engines (except engines of Class T5) of rated power less than 8,000 pounds thrust.

(7) "Class P2" means all aircraft turboprop engines.

(b) As prescribed in § 87.4 of EPA Part 87, the complete engine as configured for final acceptance testing, including all accessories that might

reasonably be expected to influence emissions to the atmosphere excluding auxiliary gearbox-mounted components required to drive aircraft systems and service air bleed, must be functional for all testing under this SFAR.

§ 14 Compliance.

(a) Compliance with the fuel venting emissions requirements of this SFAR that apply beginning on February 1, 1974, and beginning on January 1, 1975, may be shown by any means of compliance, applied to the airframe or the engine, that prevents the intentional discharge of fuel from fuel nozzle manifolds after the engines are shut down. Acceptable means of compliance include the following:

(1) Incorporation of an FAA approved system that recirculates the fuel back into the fuel system.

(2) Capping or securing the pressurization and drain valve.

(3) Manually draining the fuel from a holding tank into a container.

[(b) Compliance with the exhaust emissions requirements of this SFAR that apply to Class T4 engines beginning on February 1, 1974, is shown if the engine is a JT8D-11, JT8D-15, JT8D-17, or subsequent civil JT8D engine; or if the engine is a JT8D-1, JT8D-7 or JT8D-9 engine that was modified in accordance with Pratt and Whitney Service Bulletin 2531 which is incorporated by reference under § 10 of this SFAR.

[(c) Compliance with the exhaust emissions requirements of this SFAR that apply to Class T3 engines beginning on January 1, 1978; January 1, 1981; January 1, 1983; and January 1, 1985, is shown if the engine is a JT3D-12 engine or if the engine has been redesignated as a JT3D-1A, JT3D-1A-MC6, JT3D-1A-MC7, JT3D-3C or a JT3D-7A engine after being modified in accordance with Pratt and Whitney Service Bulletin 4694, which is incorporated by reference under § 10 of this SFAR.]

[(d)] Continued compliance with the exhaust emissions requirements of this SFAR that apply beginning February 1, 1974; January 1, 1976; [January 1, 1978; January 1, 1981; January 1, 1983; and January 1, 1985,] is shown, for engines for which the type design has been shown to meet those requirements, if the engine is maintained in accordance with applicable maintenance requirements of 14 CFR Chapter I.

[(e)] Each applicant must allow the Administrator to make, or witness, any test necessary to determine compliance with the applicable provisions of this SFAR.

§ 15 Type certificates.

(a) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no type certificate is issued, on and after the dates specified in subparagraphs (a) (1) through (a) (5) of this section, for the airplanes specified therein, unless—

(1) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(2) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(3) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975;

(4) For airplanes powered by engines of Class T2 that have a rated power of 29,000 pounds thrust or greater, each engines complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1976; and

[(5) For airplanes powered by engines of Class T3—

[(i) Each manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978; and

[(ii) Each engine manufactured before January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1985.]

(b) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no type certificate is issued, on and after the [dates specified in subparagraphs (a)(2), (a)(4) and (a)(5)] of this section, for an engine specified therein, unless the engine complies with that subparagraph.

§ 17 Supplemental or amended type certificates.

(a) Notwithstanding part 21 of the Federal Aviation Regulations, and irrespective of date of application, no supplemental or amended type certificate is issued on and after the dates specified in subparagraphs (a) (1) through (a) (4) of this section, for the airplanes specified therein, unless—

(1) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(2) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(3) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975;

(4) For airplanes powered by engines of Class T2 that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1976; and

[(5) For airplanes powered by engines of Class T3—

[(i) Each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978; and

[(ii) Each engine manufactured before January 1, 1978, complies with the exhaust emission requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1985.]

(b) Notwithstanding Part 21 of the Federal Aviation Regulations, and irrespective of the date of application, no supplemental or amended type certificate is issued, on or after the [dates specified in subparagraphs (a) (2), and (a) (4), and (a)(5) of this section,] for an engine specified therein, unless the engine complies with that subparagraph.

§ 19 Engine approvals.

(a) On and after the dates specified in this paragraph, and notwithstanding Part 21 of the Federal Aviation Regulations, no original FAA approval for installation of an engine on an airplane covered by this SFAR (including FAA acceptance of an equivalent original approval issued on or after January 1, 1978 by a foreign country of manufacture) is made by the FAA—

(1) For an engine of Class T4, unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(2) For an engine of Class T2 that has a rated power of 29,000 pounds thrust or greater, unless the engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1976; and

[(3) For an engine of Class T3, unless—

[(i) Each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978; and

[(ii) Each engine manufactured before 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1985.]

(b) On and after January 1, 1978, notwithstanding Part 21 of the Federal Aviation Regulations, no original FAA approval for installation of an engine on an airplane (including FAA acceptance of an equivalent original approval issued on or after January 1, 1978, by a foreign country of manufacture) is made by the FAA, for an engine covered by FAA emission regulations that become effective on or after January 1, 1978, unless the engine identification plate secured to the engine under § 45.11 of 14 CFR Part 45 contains a model designation that corresponds to approved type certification data indicating whether compliance has been shown with applicable emission standards.

§ 21 Standard airworthiness certificates.

Notwithstanding Part 21 of the Federal Aviation Regulations and irrespective of the date of application, no standard airworthiness certificate is issued on and after the date specified in paragraphs (a) through (e) of this section, for the airplanes specified therein, unless—

(a) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that supply beginning February 1, 1974;

(b) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(c) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel venting emission requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975;

(d) For airplanes powered by engines of Class T2 that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1976; and

[(e) For airplanes powered by engines of Class T3—

[(1) Each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978; and

[(2) Each engine manufactured before January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1985.]

§ 25 Operation.

On and after the dates specified in paragraphs (a) through (e) of this section, no person may, within the United States, operate an airplane specified in those paragraphs unless—

(a) For airplanes powered by engines of Class T2, Class T3, Class T4, or Class T5, the airframe or the engine complies with the fuel venting emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning February 1, 1974;

(b) For airplanes powered by engines of Class T4, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR part 87 that apply beginning February 1, 1974;

(c) For airplanes powered by engines of Class T1 or Class P2, the airframe or engine complies with the fuel emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1975;

(d) For airplanes powered by engines of Class T2 that have a rated power of 29,000 pounds thrust or greater, each engine complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1976; and

[(e) For airplanes powered by engines of Class T3—

[(1) Each engine manufactured on or after January 1, 1978, complies with the exhaust emissions requirements and related test procedures of 40 CFR Part 87 that apply beginning January 1, 1978; and

[(2) In addition, regardless of date of manufacture, each engine complies with the exhaust emissions requirements according to the following schedule:

[(i) One quarter of the operational Class T3 engines by January 1, 1981.

[(ii) One half of the operational Class T3 engines by January 1, 1983.

[(iii) All operational Class T3 engines by January 1, 1985.

[This compliance schedule notwithstanding, Class T3 engines which do not meet a smoke number of 25 may continue to be operated if, under an FAA approved plan, replacement engines or replacement airplanes have been ordered and are scheduled for delivery before January 1, 1985, but not after the date specified in the plan. For purposes of this paragraph, replacement engines are engines of a class other than Class T3 engines that have been shown to meet the smoke emission requirements and related test procedures of 40 CFR Part 87 appropriate to their class.]

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